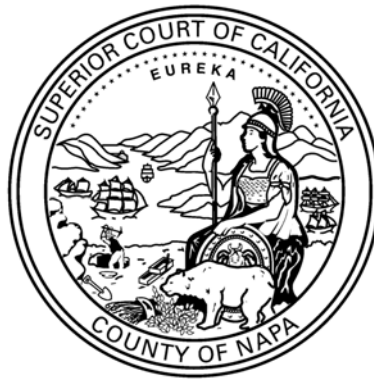


# **Superior Court of California County of Napa**



## **Local Court Rules** Effective 7/1/13

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**RULE 1: SCOPE OF RULES FOR THE SUPERIOR COURT**

These rules are intended to supplement the California Codes and Rules of Court. All attorneys and self-represented parties appearing before the Napa Superior Court must know and abide by these rules, as well as all applicable California Codes and Rules. Further, these rules are cumulative and are to be read as a whole. Thus, every rule applies to every case and every party or attorney appearing before the Napa Superior Court unless common sense or another provision of these rules exempts or supercedes it. These rules, the annual judicial assignments, and the court's schedules and calendar are available on the court's website at <http://www.napa.courts.ca.gov>. (Effective 7/1/02)

**1.1 Effective Date of Rules**

These rules shall take effect on January 1, 2013. (Effective 7/1/02; revised 7/1/03; revised 7/1/05; revised 1/1/06; revised 7/1/06; revised 1/1/07; revised 7/1/07; revised 7/1/08; revised 1/1/09; revised 7/1/09; revised 1/1/10; revised 1/1/11; revised 7/1/11; revised 1/1/12; revised 7/1/12; revised 1/1/13; revised 7/1/13)

**1.2 Citation of Rules**

These rules shall be known and cited as "Local Rules for the Superior Court of the State of California, County of Napa". (Effective 1/1/99)

**1.3 Construction and Application of Rules**

These rules shall be liberally construed to serve the proper and efficient administration of the business and affairs of this court and to promote and facilitate the administration of justice by the Superior Court of Napa County.

These rules may be amended or repealed and new rules may be added, by majority vote of the judges. Rule and subdivision headings do not affect in any manner the scope, meaning, or intent of any of the provisions of these rules.

These rules are adopted pursuant to Code of Civil Procedure section 575.1. Any party or counsel for a party failing to abide by these rules may be sanctioned upon motion of any party or counsel for a party or on the court's own motion as set forth in Code of Civil Procedure section 575.2.

(Effective 7/1/02)

**RULE 2: COURT ORGANIZATION**

**2.1 Policy Making Authority**

Responsibility for formulating policy, including regulations concerning court administration, is vested in the Executive Committee of the court system with advice from all judges of the court. The Executive Committee is comprised of the Presiding Judge, the Assistant Presiding Judge, and the Court Executive Officer. (Effective 1/1/99; revised 1/1/11; revised 1/1/12)

**2.2 Administrative Authority**

The Court Executive Officer is appointed by, and serves at the pleasure of, a simple majority of the judges. (Effective 7/1/02; revised 1/1/11)

**2.3 Presiding Judge, Assistant Presiding Judge, and Acting Presiding Judge**

A Presiding Judge and Assistant Presiding Judge shall be elected by a simple majority of the judges, not later than August every other year, to serve a two-year term beginning the following January 1. If the Presiding Judge is absent or unable to act, the Assistant Presiding Judge shall be the Acting Presiding Judge. If both the Presiding Judge and Assistant Presiding Judge are absent or unable to act, the Senior Judge shall be the Acting Presiding Judge. (Effective 7/1/02; revised 7/1/06; revised 7/1/08; revised and renumbered 1/1/11)

**2.4 Location and Schedule of Court Sessions**

Sessions of the court shall be held in the courtrooms in the Historic Courthouse, Criminal Courthouse, and Juvenile Courthouse. In addition, the court may conduct sessions at any appropriate location within the county of Napa at the direction of the judicial officer presiding at such hearing. Courtrooms are at the following locations:

Historic Courthouse, 825 Brown Street, Napa

Courtroom A  
Courtroom B  
Courtroom C  
Courtroom N  
Courtroom O

Criminal Courthouse, 1111 Third Street, Napa

Courtroom D  
Courtroom E  
Courtroom F  
Courtroom G  
Courtroom H

Juvenile Courthouse, 2350 Old Sonoma Road, Napa  
Courtroom JH

(Effective 7/1/02; revised 1/1/06; revised and renumbered 1/1/11)

## 2.5 Applications for Ex Parte Orders

Except as otherwise specifically preempted by California Rules of Court, rule 3.20, ex parte applications shall conform with these rules:

- A. **Civil.** Applications involving civil matters shall be presented to a judicial officer of the civil division at 11:30 a.m. each court day. Unless the nature of the application precludes giving notice to the other side, such notice must be given and an appointment must be made by calling the clerk of the court no later than 10:00 a.m. the preceding court day. The court may waive notice for good cause. Ex parte applicants must check in with the civil division no later than 10:30 a.m. the day of the hearing. (Revised 1/1/13)
- B. **Family Law/Juvenile/Guardianships.** Applications involving family law, juvenile, and guardianship matters shall be presented to a judicial officer of the family law division at 11:00 a.m. each court day. Unless the nature of the application precludes giving notice to all parties (and to the Probation Department in Welfare & Institutions Code sections 300 and 602 matters), such notice must be given and an appointment must be made by calling the clerk of the court no later than 10:00 a.m. the preceding court day. The court may waive notice for good cause. Ex parte applicants must check in with the civil division no later than 10:00 a.m. on the day of the hearing.
- C. **Probate.** With the exception of guardianship ex partes, which shall be heard as set forth in subdivision B above, applications involving probate matters shall be presented to a judicial officer of the civil division at 11:30 a.m. each court day. Unless the nature of the application precludes giving notice to the other side, such notice must be given and an appointment must be made by calling the clerk of the court no later than 10:00 a.m. the preceding court day. The court may waive notice for good cause.
- D. **Unavailability or Disqualification.** If the judge to whom an application should be presented under this rule is unavailable (*i.e.*, not physically present) or is disqualified, or in cases of emergency, the application may be presented to any available judge of the court.

(Effective 7/1/02; revised 7/1/03; revised 7/1/05; revised 1/1/06; revised and relettered 7/1/06; revised 1/1/07; revised and renumbered 1/1/11)

## 2.6 “Duty” Judge

One judge shall be the duty judge each month. The duty judge shall be responsible for the handling of emergency protective orders, off-hours search warrants, off-hours writs, and other matters requiring judicial attention off-hours.

The judges shall annually designate which month each will serve and will notify Napa County Central Dispatch of these designations. A duty judge unable to act will arrange for a substitute and will notify dispatch accordingly.

In the event the duty judge cannot be reached, any judge may be contacted for off-hours judicial business. Judges can be reached through Napa County Central Dispatch at (707) 253-4451 during non-court hours.

(Effective 7/1/02; renumbered 1/1/11)

## 2.7 Compensation of Court-Appointed Counsel and Investigators

Current compensation rates for appointed counsel and investigators are available on the court’s website at <http://www.napa.courts.ca.gov>. (Effective 1/1/99; revised 7/1/04; revised 7/1/07; renumbered 1/1/11)

## 2.8 Telephonic Appearances

**A. Program Overview.** The Napa Superior Court permits telephonic appearances for non-evidentiary law and motion matters, including Trial Setting Conferences and Title IV D hearings and conferences, as set forth in California Rules of Court, rule 5.324.

1. Telephonic appearance is available at a fixed fee to use when circumstances are appropriate.
2. Preference may be given to cases with telephonic appearances.
3. Hearings are conducted in open court or in private as the court may designate. All attorneys or parties making telephonic appearances call a designated toll-free teleconference number a few minutes before the calendar is scheduled to check in with the clerk. Attorneys or parties remain on the court’s speakerphone telephone line and hear the same business as those present in court. Attorneys or parties not participating telephonically appear in person. The court calls cases for hearing. All attorneys or parties on a case participate in the hearing. All present in the courtroom hear the discourse of those making telephonic appearances, unless the case is heard in private.



4. Parties intending to appear by telephone must give five (5) days' written notice of said intention to all other counsel and parties, and must pay the required fee to the telephone appearance provider.

**B. Participation in Telephonic Appearances.**

1. Courts

a. Each participating court may give calendar hearing order preference to cases that include attorneys or parties making telephonic appearances.

b. The following matters are currently deemed unsuitable for telephonic appearances:

(1) Any hearing at which witnesses are called to testify;

(2) Settlement Conferences and final Status Conferences, unless the court orders otherwise;

(3) Any hearing or conference for which the court determines that a personal appearance would materially assist in a determination of the proceeding or in resolution of the case.

c. The court reserves the right, at any time, to reject any request for telephonic appearance. When the court rejects a request, it shall notify the telephonic appearance provider and order a refund of deposited telephonic appearance fees.

d. The court shall also reserve the right to halt the telephonic hearing on any matter and order the attorneys or parties to personally appear at a later date and time, in which case no refund is permitted.

e. If a matter is continued prior to the actual hearing date, the prior request for telephonic appearance shall remain valid for the continued date of the hearing, provided the attorney or party notifies the telephonic appearance provider in writing of the continuance. There are no refunds for matters that go "off calendar".

f. Existing rules and procedures regarding the preparation of the record by a court reporter or electronic device or obtaining a transcript after the hearing shall apply to hearings at which telephonic appearances are made.

2. Attorneys and Parties

a. Attorneys or parties electing to make a telephonic appearance must arrange the appearance with a telephonic appearance provider.

b. The words “Telephonic Appearance Requested” must be printed below the department, date, and time of the hearing on the first page of papers filed with the court.

**C. Appearance Procedure.**

1. An attorney or party making a telephonic appearance shall:

a. Eliminate to the greatest extent possible all ambient noise from the attorney or party’s location;

b. Speak directly into a telephone handset;

c. Not call in via a payphone, cellular or cordless telephone device, or a personal computer.

2. An attorney or party making a telephonic appearance must call the court’s designated toll-free teleconference line approximately five (5) minutes prior to the scheduled hearing time and check in with the clerk. An attorney or party calling after the check-in period shall be considered late for the hearing and shall be treated by the court in the same manner as if the attorney or party had personally appeared late for the hearing.

3. An attorney or party appearing telephonically must state his or her name for the record each time he or she speaks, and shall participate in the appearance with the same degree of courtesy and courtroom etiquette as is required for a personal appearance. A person appearing by telephone must not use the “hold” button, as it is not within the policy of the court to wait for an attorney or party to rejoin the line.

(Effective 7/1/02; revised 7/1/03; revised 7/1/06; revised 1/1/07; revised 7/1/08; renumbered 1/1/11)

**2.9 Tentative Ruling System**

The court has adopted a tentative ruling system in civil law and motion and probate matters. Tentative rulings will be available no later than 3:00 p.m. on the court day before the scheduled hearing, and may be obtained on the court’s website at <http://www.napa.courts.ca.gov>. Rulings may also be obtained by calling (707) 299-1270.

Oral argument on matters for which a tentative ruling has been posted will be permitted only if a party notifies all other parties and the court by 4:00 p.m. on the court day before the hearing that the party intends to appear and argue. Notice to the court shall be given by calling (707) 299-1270 (when recording begins, press “0”). If notice of intent to appear has not been given to all parties and to the court, no oral argument will be permitted and the tentative ruling will become the court’s ruling. If no tentative ruling is posted on a particular matter, or if the tentative ruling indicates that an appearance is required, then the parties must appear at the hearing.

(Effective 7/1/02; revised 7/1/03; revised 1/1/07; revised 1/1/09; renumbered 1/1/11)

Each noticed motion or petition must include the following information, in bold type and placed in a conspicuous location on the notice, motion, or petition:

**“The Napa Court uses a Tentative Ruling System. To receive the tentative ruling, visit the court’s website at <http://www.napa.courts.ca.gov> or telephone the court at (707) 299-1270 after 3:00 p.m. the court day before the scheduled hearing date. Unless the court directs otherwise, no oral argument will be permitted unless a party or counsel for a party requests a hearing by calling the court and all other parties or counsel no later than 4:00 p.m. the court day before the hearing.”**

(Effective 7/1/13)

## **2.10 Facsimile Filing**

The Napa Superior Court will accept agency fax filing of all documents except those specified in California Rules of Court, rule 2.300.

Direct filing of documents by fax to the Napa Superior Court is allowed on a case-by-case basis if deemed necessary and appropriate to expedite a matter and then only upon prior approval or by direction of a judicial officer. The telephone number for fax filings is (707) 253-4229 for civil filings, and (707) 253-4673 for criminal filings. The court does not allow direct fax filings of documents that require a fee, a signature of a judge, documents with multiple exhibits, or any document not permitted by law to be faxed. The submitting party is to retain the original of any faxed document, and shall provide it to the court only upon court order or request of opposing party.

A fax filing cover sheet is required and must contain the following information:

1. The judicial officer to whom the fax filing is directed.
2. The judicial officer who permitted a direct fax filing, if applicable, and the date and time of such authorization.

Fax filings must comply with all filing requirements otherwise listed in the State or Local Rules. Compliance with all rules and proper transmission of the documents are the responsibility of the sending party and/or the fax filing service.

(Effective 7/1/02; revised 1/1/07; renumbered 1/1/11)

### **2.11 Sealing of Juror Information**

The addresses and telephone numbers of jurors may be sealed at the time the jurors are impaneled. Upon petition to the court, the information may be unsealed upon 20 days' notice to any juror who may be affected by a court order unsealing the information. Upon recording of the verdict in a criminal case, the court shall follow the procedure specified in Code of Civil Procedure section 237. (Effective 7/1/02; renumbered 1/1/11)

### **2.12 Courtroom Security**

To ensure the security of the courthouses and courtrooms, no person, except those authorized to do so, shall enter any courthouse or courtroom carrying, or in possession of, any weapon or device as described in Penal Code section 171b, or any other thing that may reasonably be used as a weapon. "Weapon" includes any knife, even if less than four (4) inches in length. Court security staff may search any person entering any courthouse or courtroom for possession of weapons. (Effective 7/1/02; renumbered 1/1/11)

### **2.13 Court Reporter Fees**

Court reporter fees are due and payable at the beginning of the hearing or trial. "Beginning" is defined as the moment the matter is assigned to the trial court and the judicial official calls the action for hearing or trial.

Unless the court orders otherwise for good cause, a half-day fee shall be charged for any matter which lasts more than one (1) hour but not more than four (4) hours. A full day fee shall be charged for any matter lasting more than four (4) hours.

Court reporter fees are collectible in all matters other than criminal and juvenile matters.

Court Reporter fees for the estimated length of the hearing or trial must be deposited prior to hearing or trial in either the civil division, Historic Courthouse, 1<sup>st</sup> Floor, or in the criminal division, Criminal Courthouse, 1<sup>st</sup> Floor. For mailing, send to the Napa Superior Court, 825 Brown Street, or 1111 Third Street, Napa, CA 94559.

For any hearing estimated to last more than one (1) hour but not more than four (4) hours, each party shall deposit their pro-rata share of \$225.00, or for any hearing estimated to last more than four (4) hours, each party shall deposit their pro-rata of share \$450.00.

If, for whatever reason (fee waiver/governmental agency), one side is not required to post fees, the other side(s) shall still be responsible for its pro-rata share. Any delay in payment or deviation from above procedures shall immediately be referred to the trial judge for resolution.

(Effective 7/1/03; renumbered 1/1/11)

## **2.14 Court Reporting Services**

- A. General Provisions.** The Napa Superior court provides court reporting services at the court's expense in all proceedings for which such services are required by law. Official court reporters will not be provided in proceedings for which such services are not legally mandated. The following chart sets forth the types of proceedings for which official court reporters will be provided by the court. For all other proceedings, if a party wishes the matter to be reported, the party shall be required to arrange for the attendance of a pro tem reporter. It will be that party's responsibility to pay the pro tem reporter's fee.

<b>Case Type</b>	<b>Shorthand Reporter Provided by Court?</b>
<b>Felony Case</b>	Yes
<b>Misdemeanor Case</b>	No
<b>Infraction Case</b>	No
<b>Juvenile 300</b>	Yes
<b>Juvenile 602</b>	Yes
<b>Unlimited Civil incl. Unlimited UDs</b>	No
<b>Limited Civil incl. Limited UDs</b>	No
<b>Small Claims</b>	No
<b>Family Law</b>	No
<b>Adoption</b>	No
<b>Probate</b>	No
<b>Guardianship</b>	No
<b>Conservatorships</b>	No
<b>Civil Ex Parte</b>	No
<b>Domestic Violence</b>	No
<b>Civil Harassment</b>	No

- B. Court Reporting Services Requested by Parties for Civil Trials.** A party in any type of civil case must file a statement prior to the Case Management Conference date indicating whether the party requests the presence of an official

court reporter. Parties should be aware that, as set forth in subsection A above, such services will generally not be available.

(Effective 7/1/04; revised 1/1/06; revised 1/1/07; renumbered 1/1/11; revised 1/1/12)

**2.15 Audio and Video Recording and Transmission**

Audio and video recording and transmission is permitted only inside a courtroom, and only when authorized by the judicial officer presiding in that courtroom. Audio and video recording and transmission is forbidden anywhere else within any courthouse, unless authorized in writing by the presiding judge. (Effective 7/1/06; renumbered 1/1/11)

**2.16 Master Calendar System**

The Napa Superior Court uses a Master Calendar system for civil and criminal matters. Unless otherwise ordered, cases are not assigned to a single judge for all purposes. (Effective 7/1/13)

**RULE 3: DOCUMENTS PRESENTED FOR FILING**

**3.1 Form and Filing of Documents, Generally**

All documents filed with the court must conform to the rules established by the Judicial Council. Refer to California Rules of Court, rules 2.100-2.119 and 3.1110-3.1116, for form and format of documents presented for filing. Unless otherwise ordered or specifically provided by law, all moving and supporting papers filed with the court in civil cases must be in conformance with California Code of Civil Procedure section 1005. The court, in its discretion, may refuse to consider any paper not filed in conformance with this rule.

The Napa Superior Court specifically exempts motions filed in criminal cases from the requirements of Code of Civil Procedure section 1005. In criminal cases only, the court will accept moving papers ten (10) court days before the date set for hearing, opposition five (5) court days before the hearing, and reply papers two (2) court days before the hearing.

All California citations must be to the Official Reports. Parallel citations may be included. Unpublished or depublished cases may not be cited, and the court will treat any argument relying upon such citations as unsupported.

(Effective 7/1/02; revised 1/1/07; revised 1/1/12)

**3.2 Use of Judicial Council and Napa County Forms**

The court requires the use of Judicial Council forms adopted for mandatory use and encourages the use of Judicial Council optional forms. Parties are also required to use all forms adopted for mandatory use by the Napa County Superior Court. The clerk will not accept for filing any form, document, or pleading which is not in compliance with these rules. (Effective 7/1/93; revised 7/1/04)

**3.3 Proof of Service**

If no proof of service is filed with the court prior to the time set for hearing, the matter may be taken off calendar. (Effective 7/1/02; renumbered 1/1/06)

**3.4 Endorsing Copies**

The Court Executive Officer will endorse a maximum of two (2) copies of any filed document at the time of filing. Additional copies will be provided by photocopying and the standard fee for copies will be charged. (Effective 7/1/02; renumbered 1/1/06; renumbered 7/1/08)

**3.5 Prepaid, Pre-Addressed Envelopes Required**

A pre-addressed envelope with sufficient postage affixed is required for the mailed return of all documents submitted for endorsement. Copies submitted for endorsement without an envelope

will be placed in the attorneys' "will-call box" in the clerk's office. Endorsed items not picked up may be destroyed. (Effective 7/1/02; renumbered 1/1/06; revised 7/1/07; renumbered 7/1/08)

### **3.6 Time and Date Must be Shown**

When the date of the hearing for any law and motion matter is known, all papers filed for consideration at the hearing shall contain the hearing date, time, and the department, if known, below the action number. Failure to comply with these rules may result in documents not being before the court at the time of the hearing. (Effective 7/1/93; renumbered 1/1/06; renumbered 7/1/08)

### **3.7 Requests for Judicial Notice**

Requests for Judicial Notice must include copies of the item(s) to be noticed. Alternatively, the party requesting judicial notice must arrange for the item(s) to be before the court at the time of the hearing. If request is made for judicial notice of a specific court document, the request shall specify the exact title of the document and the date the document was filed. A copy of authority from another jurisdiction, except for federal authority, must be attached to the Request for Judicial Notice. (Effective 1/1/99; revised 7/1/05; renumbered 1/1/06; renumbered 7/1/08)

### **3.8 Filing Documents in Matters Set on Shortened Time**

Unless otherwise ordered by the court, for all matters set on shortened time, the last paper filed must be filed no later than 9:00 a.m. two (2) court days before the matter is scheduled to be heard by the court. (Effective 7/1/02; renumbered 1/1/06; renumbered 7/1/08)

### **3.9 Redaction of Social Security Numbers**

In the interest of protecting the privacy rights of litigants, the court will not accept for filing documents containing the social security number of a party or other person. It is the responsibility of the party or attorney to redact the social security number from any document presented for filing that will be available for public inspection in the court file. Documents categorized as "confidential" pursuant to any statute need not be redacted. If an individual's social security number must be included in a document, at least the first five (5) numbers shall be redacted. (Effective 7/1/03; renumbered 1/1/06; renumbered 7/1/08)

### **3.10 Lodging of Non-California Authority**

Pursuant to California Rules of Court, rule 3.1113(i)(1), parties shall not lodge or file copies of cited non-California authorities unless specifically requested by the court. (Effective 1/1/12)



**RULE 4: CRIMINAL RULES**

**4.1 Filing Complaints and Citations**

Initial complaints must be filed with the clerk on the first floor of the Criminal Courthouse. In-custody complaints must be filed no later than 11:00 a.m. of the second court day following the defendant's arrest. All other complaints must be filed no later than two (2) court days before the date set for arraignment.

Complaints or citations presented for filing before 4:30 p.m. will be deemed filed on the date of receipt; complaints or citations received after 4:30 p.m. will be deemed filed the following court day.

Each complaint or citation that is filed with the court must be accompanied by a sealed envelope marked "Confidential Defense Discovery Materials" that contains (1) a copy of the complaint or citation, (2) all crime reports, and (3) the defendant's criminal history. There must be a separate envelope for each defendant.

(Effective 7/1/02; revised 7/1/09)

**4.2 Documents Necessary for a Hearing**

Counsel must prepare in advance all documents necessary for any hearing, including, but not limited to, plea forms and probation orders. (Effective 7/1/02)

**4.3 Motions**

Unless otherwise provided by law or these rules, all motions must be in writing, and must be filed and served no later than ten (10) court days prior to the hearing. Responsive pleadings must be filed and served no later than five (5) court days prior to the hearing. Reply papers must be filed and served no later than two (2) court days prior to the hearing. (Effective 7/1/02; revised 1/1/12)

**4.4 In Limine Motions**

All *in limine* motions must be in writing. They must be filed and served at or before the Readiness Conference. (Effective 7/1/02; revised and renumbered 1/1/06; revised 7/1/06)

**4.5 Jury Instructions and Verdict Forms**

Jury instructions and verdict forms must be submitted on the first day of trial. (Effective 7/1/02; renumbered 1/1/06)

**4.6 Stipulations and Orders**

Any stipulation between the parties that results in a court date being scheduled must be presented to the court with a proposed order at least two (2) court days before the agreed upon court date in the stipulation. Stipulations that are presented without a proposed order will not be accepted for processing. (Effective 7/1/09)

**4.7 Effective Date of Filing**

All documents presented for filing by 5:00 p.m. to a clerk or deposited in the court drop box will be deemed filed on the date of receipt. (Effective 7/1/09; revised 1/1/13)

**RULE 5:      TRAFFIC INFRACTION TRIALS**

**5.1      Trial by Written Declaration**

The court, pursuant to this rule, adopts the trial by declaration process, defined in Vehicle Code section 40902. In addition, pursuant to Vehicle Code section 40903, any person who fails to appear at trial as provided by law may be deemed to have elected to have a trial by written declaration. (Effective 7/1/93)

**5.2      Traffic and Engineering Surveys**

The court takes judicial notice of all surveys lodged with the court. Upon request, the certified survey shall be produced by the court for inspection by the defendant. (Effective 1/1/99)

**RULE 6: CIVIL RULES**

**6.1 Case Management Conference**

The Case Management Conference provided by rule 6.6.1 will be noticed no sooner than 120 days and no later than 180 days after the filing of the original complaint. (Effective 7/1/02)

**6.2 Trial Management Conference**

Unless otherwise ordered by the court, Trial Management Conferences are generally held the second to the last court day of the week preceding the week in which the jury will be selected, or, in a court trial, the first witness called. The case will be assigned to a trial judge at the Trial Management Conference. This assignment is deemed the assignment from the master calendar. The Trial Management Conference is deemed to be the commencement of trial for all purposes, including discovery and motion cutoff, disclosure of witnesses and expert witnesses, and commencement of all trial-related fees, such as jury and court reporter fees. All *in limine* motions will be heard at the Trial Management Conference, and the court will attend to all other trial management issues to facilitate expeditious commencement of trial. (Effective 7/1/02; revised 1/1/06; revised 1/1/11)

**6.3 Short Cause Trials**

Short cause cases shall be assigned a date certain at the time of the Case Management Conference. Counsel must be prepared for trial on the date set. No continuances will be granted except upon a showing of good cause by a timely noticed motion. Stipulations to continue between counsel will not be construed as good cause. (Effective 7/1/02)

**6.4 Long Cause Trials**

Long cause cases shall be assigned a date certain at the time of the Case Management Conference. Counsel must be prepared for trial on the date set. No continuances will be granted except upon a showing of good cause by a timely noticed motion. Stipulations to continue between counsel will not be construed as good cause. (Effective 7/1/02; revised 7/1/03)

**6.5 Trial Procedures**

All exhibits, except for those used solely for impeachment purposes, must be exchanged between counsel no later than five (5) court days prior to the Trial Management Conference.

Unless otherwise ordered by the court, all exhibits the parties intend to introduce at trial, except those to be solely used for impeachment purposes, must be marked by counsel as exhibits and lodged with the court on the date of the Trial Management Conference. Marking consists of placing the exhibit tag on the exhibit with the case number written on the bottom center of the tag. Plaintiffs/petitioners must use yellow tags designated "Plaintiff" or "Petitioner". Defendants/respondents must use blue tags designated "Defendant" or "Respondent".

Plaintiffs/petitioners shall mark their exhibits numerically; defendants/respondents shall mark their exhibits alphabetically. At the Trial Management Conference, parties shall also submit to the court a list of exhibits with their corresponding numbers or letters. If the trial date is continued, the parties shall retain possession of their own exhibits until the next scheduled Trial Management Conference.

All motions *in limine* must be in writing and filed with the clerk of the court no later than ten (10) court days prior to the Trial Management Conference. Oppositions to motions *in limine* shall be filed at least five (5) court days before the Trial Management Conference. The court shall have the discretion to strike (*i.e.*, not consider) late-filed motions and oppositions. No oral motions *in limine* will be considered by the court.

The parties are ordered to lodge with the clerk of the court all jury instructions they intend to request no later than the Trial Management Conference. The jury instructions must be completed with all blanks filled in and all bracketed portions either stricken or the brackets eliminated.

If the case settles in its entirety either the week or two (2) weeks prior to trial, both the Trial Management Conference and the trial SHALL REMAIN on calendar unless dismissals or judgments are on file disposing of the entire case. Appearances are mandatory for all counsel. If dismissals and/or judgments are filed prior to the Trial Management Conference disposing of the entire case, both the Trial Management Conference and the trial date shall be vacated.

If a case settles in its entirety prior to the two (2) weeks prior to trial, upon advisement by fax or letter or pleading, all pretrial and trial dates will be vacated and the matter will be set for an Order to Show Cause re Dismissal. Upon receipt of all dismissals and/or judgments disposing of all parties, the Order to Show Cause re Dismissal shall be vacated.

Upon completion of trial, all exhibits shall be immediately returned to the offering party. Counsel must be prepared to assume total responsibility and custody of any exhibit offered or received in evidence at the conclusion of trial. Custody of all exhibits must be retained and be made readily available to the court within the following limits:

1. Until 90 days following judgment if no appeal is filed.
2. If an appeal is filed, until 30 days following the date of filing remittitur, assuming the judgment is affirmed.
3. If an appeal is filed and the judgment is reversed or otherwise requires further rehearing, until resolution of the matter.

(Effective 7/1/02; revised 7/1/04; revised 7/1/11)

## **6.6 Administration of Civil Litigation**

### **6.6.1 Service of Complaint**

Upon the filing of a Complaint, the plaintiff shall receive the following from the clerk for service upon the parties:

1. Notice of Case Management Conference indicating the courtroom, date, and time of conference. The Case Management Conference will be set within 180 days of the filing date of the original Complaint. The court may continue this date if necessary to comply with Government Code section 68616.
2. An ADR Information Packet.
  - A. **Forms with Summons and Complaint and Return of Proof of Service.** The plaintiff shall serve the Summons and Complaint, which must be served together with a Notice of the Case Management Conference and the ADR Information Packet promptly after the pleading is filed. Proof of service shall be filed with the court within ten (10) days of this service. The ADR packet need not be served on any defendant in any civil action brought by the District Attorney or the Attorney General in the name of the People of the State of California.
  - B. **New Parties in Cross-Complaint.** If a Cross-Complaint names new parties, the cross-complainant shall serve copies of the Notice of Case Management Conference and the ADR Information Packet on the new parties at the same time that the Cross-Complaint is served.

(Effective 7/1/02)

### **6.6.2 Mandatory Settlement Conferences**

In addition to requirements of California Rules of Court, rule 3.1380(c), each party shall submit to the court and serve on each other a Settlement Conference Statement that must include a statement of the factual and legal contentions in dispute, a list of all special damages claimed, copies of pertinent medical reports, and other pictorial or documentary evidence pertinent to settlement, the highest previous offer and the lowest previous demand, the date when the last face-to-face or telephonic settlement discussion was held between all parties, and a statement as to any special problems relating to settlement such as lack of or disputed insurance coverage.

It is the policy of the court to encourage settlements at any stage of the proceedings and the civil master calendar judge may, at the request of a party to the action, set a cause for a Voluntary Settlement Conference on any date convenient to the court and counsel.

(Effective 7/1/02; revised 1/1/06; revised 1/1/07)

### **6.6.3 Cases Stayed Under California Rule of Court 3.650(d)**

Once notification is received regarding said stay, the court shall issue an Order to Show Cause re Removed Case with a review date approximately 180 days from the date of notification.  
(Effective 7/1/02)

### **6.6.4 Dismissal of Action or Entry of Judgment Following Settlement**

If a case settles in its entirety within two (2) weeks prior to trial, both the Trial Management Conference and the trial SHALL REMAIN on calendar unless dismissals or judgment are on file disposing of the entire case. Appearances are mandatory for all counsel. If dismissals and/or judgment are filed prior to the Trial Management Conference disposing of the entire case, both the Trial Management Conference and the trial date shall be vacated.

Following settlement of the action, the court will set a date by which the action shall be dismissed or judgment entered. In the event the parties do not comply with the court's order in this regard, the court, on its own motion will dismiss the action or enter judgment effective as of the date set for dismissal or entry of judgment.

If a case settles in its entirety more than two (2) weeks prior to trial, upon advisement by fax or letter or pleading, all pretrial and trial dates will be vacated and the matter will be set for an Order to Show Cause re Dismissal. Upon receipt of all dismissals and/or judgments disposing of all parties, the Order to Show Cause re Dismissal shall be vacated.

(Effective 7/1/02)

### **6.7 Requests for Continuance to be Signed by Parties**

All requests for continuance of trial must be supported by good cause shown, must be signed by counsel and signed by the party, acknowledging the party concurs with the request.

If a request to continue trial is presented in the form of a stipulation and order and not by noticed motion, a supporting declaration must be submitted that includes the following information: the reasons for the requested continuance, the number of previous continuances, whether the case is a Delay Reduction case, when the complaint was filed, whether the case has been declared protracted, and any additional information that the parties believe will assist the judge in evaluating the request.

(Effective 7/1/02; revised 7/1/03; revised and renumbered 1/1/06; revised 1/1/12)

## **6.8 Uninsured Motorist Cases**

An action for personal injury or property damage against an uninsured defendant may be designated an “uninsured motorist case” upon application of the plaintiff filed within 30 days of the commencement of the action. Upon the filing of such an application, the court will set a hearing date 180 days from the date of the designation, to allow for arbitration pursuant to Government Code section 68609.5. At the hearing, the action will be dismissed (without prejudice) unless the court, for good cause, extends the time for resolution of the case. (Effective 7/1/02; revised 7/1/03; renumbered 1/1/06)

## **6.9 Communication With Court Staff**

Neither the parties nor their counsel shall initiate communications with the research attorney staff, but shall promptly respond to inquiries directed to them by staff members. (Effective 7/1/03; renumbered 1/1/06)

## **6.10 Hearings Exceeding 15 Minutes**

If any hearing on a regularly noticed motion exceeds 15 minutes, the court shall have the authority to continue said hearing to a different date when the court has adequate time to hear extended argument. (Effective 7/1/03; renumbered 1/1/06)

## **6.11 Attorney Fees in Default Proceedings**

- A. Limited and Unlimited Jurisdiction Defaults.** Whenever the obligation sued upon provides for the recovery of attorney fees, the fee in each default civil case, whether unlimited or limited jurisdiction (and excluding unlawful detainers) shall be fixed pursuant to the following schedule:

\$500.00 Minimum  
20 percent up to \$5,000  
15 percent of next \$10,000  
10 percent of next \$25,000  
5 percent above \$40,000

Any party seeking attorney fees in excess of those provided for herein shall submit a declaration to the court, substantiating the extraordinary fees.

- B. Unlawful Detainers.** For default unlawful detainer actions, the default amount for attorney fees shall be \$300.00. Any party seeking attorney fees in excess of those provided for herein shall submit a declaration for submission to the court, substantiating the extraordinary fees.

(Effective 7/1/03; renumbered 1/1/06; revised 7/1/12)



**6.12 Requests for Extension of Time to File to be Signed by Parties – Mandatory Form**

A party requesting an extension of time to file a Return of Summons, Responsive Pleading, Default Judgment, or any other required pleading shall submit a Request for Extension of Time to File, using Napa Superior Court's mandatory form, located on the court's website at <http://www.napa.courts.ca.gov>. Note that the party is required to sign the form.  
(Effective 7/1/08; revised 1/1/12)

**RULE 7: FAMILY LAW PROCEEDINGS**

**7.1 Scope**

Family law matters include all matters related to the Family Law Act, Uniform Parentage Act, the Domestic Violence Prevention Act, the Uniform Child Custody Jurisdiction Act, the Domestic Partnership Act, and guardianships. The family law division manages cases pursuant to Family Code sections 2450 - 2452. (Effective 7/1/02; revised 7/1/11)

**7.2 Calendar Assignments**

All family law matters in which at least one party is represented by counsel are calendared in the master family law department, except child support enforcement. Family law matters in which both parties are self-represented are heard separately on the family law self-represented calendar. Restraining order hearings, ex parte hearings, guardianship proceedings, and child support enforcement proceedings where the Department of Child Support Services is appearing are heard on separate calendars. The dates, times, departments, and judicial assignments for these calendars may be found at <http://www.napa.courts.ca.gov>. (Effective 7/1/11)

**7.3 Service and Filing**

All documents filed with the court must comply with Local Rule 3, including redaction of social security numbers.

Unless otherwise provided by statute or rule, moving and responsive pleadings along with all supporting documents shall be filed and served on the opposing party or attorney in accordance with Code of Civil Procedure section 1005.

All parties shall comply with the provisions of Family Code section 215, requiring service upon a party after entry of a final judgment of dissolution.

(Effective 7/1/02; revised 1/1/11; revised and renumbered 7/1/11)

**7.4 Declarations**

All supporting and opposing declarations shall be made on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the declarant is entitled to the relief requested and is competent to testify to the matters stated therein. (Effective 7/1/02; revised 7/1/07; revised 7/1/08; revised and renumbered 7/1/11)

## 7.5 Proof of Service

Proof of timely service should be filed with the clerk no later than two (2) calendar days before the date set for hearing. Parties should retain a file-stamped copy of the proof of service to provide the court in the event the original has not yet been placed in the court file. (Effective 7/1/07; revised and renumbered 7/1/11)

## 7.6 Family Law Case Management

**A. Policy.** It is the policy of the Napa Superior Court that all family law cases initiated will be managed to expedite resolution of the case, reduce the cost of litigation, and focus on early settlement. These rules relating to the administration of family law actions apply to all actions for dissolution, nullity, legal separation of spouses in a marriage or partners in a domestic partnership, actions to establish parental relationship, and such other cases assigned to the program by the family law judge filed after January 1, 2007. (Effective 7/1/07; revised 7/1/08; revised and renumbered 7/1/11)

**B. Forms to be Issued by Clerk Upon Filing of Petition.** Upon the filing of a case subject to Family Law Case Management, the petitioner shall receive two (2) copies of each of the following documents, one (1) of each to be served by petitioner upon the respondent:

1. Guide to Case Management. This document provides a quick summary of the steps necessary for completing the Family Law Case Management Program. It also provides the dates by which the parties should file and serve required documents (*i.e.*, Proof of Service, Request for Default or Response, and Proof of Financial Disclosures).

2. Blank Case Management Conference Report. This document provides the court with information regarding the status of the case.

3. Notice of Family Law Case Management. This document provides the parties with notice of the date, time, and location of the Family Law Case Management Conference. It also highlights the dates by which the required documents should be filed and served.

(Effective 7/1/07; revised 7/1/08; renumbered 1/1/11; revised and renumbered 7/1/11)

**C. Service of Summons and Petition -- Forms to be Served on Other Party.** The petitioner shall serve the following documents on the opposing party:

1. Summons, Petition, and, if applicable, petitioner's completed Declaration Under Uniform Child Custody Jurisdiction Enforcement Act.

2. Guide to Case Management.
3. Blank mandatory Family Law Case Management Conference Report.
4. Notice of Family Law Case Management.

(Effective 7/1/07; revised 7/1/08; renumbered 1/1/11; renumbered 7/1/11)

**D. Case Management Conferences.**

1. Calendar. The first Family Law Case Management Conference shall be held on the first Monday of the month at least 120 days after the filing of the Petition by a petitioner represented by counsel, and on the first Tuesday of the month at least 120 days after the filing of the Petition by a self-represented petitioner, unless a judgment resolving all issues has been entered prior to the Family Law Case Management Conference. Once a date has been set for a Family Law Case Management Conference, it cannot be changed without a showing of good cause.

2. Appearance Mandatory. Appearance at the Family Law Case Management Conference is mandatory by counsel or the party if self-represented. The case is subject to dismissal if both parties fail to appear at the Family Law Case Management Conference.

3. Service of Case Management Conference Report. Each party must file and serve a Family Law Case Management Conference Report (or jointly file one report) at least five (5) calendar days prior to the Family Law Case Management Conference. The parties shall use the Napa Superior Court's mandatory Family Law Case Management Conference Report, a local form available on the court's website at <http://www.napa.courts.ca.gov>.

4. Purpose. At the first Family Law Case Management Conference, the court will review the status of the case, discovery plans, settlement options, alternative dispute resolution, and unresolved issues. At this or any Family Law Case Management Conference, the court may make further orders that the court deems necessary, consistent with Family Code sections 2032(d) and 2450, including but not limited to:

- a. Set a Settlement Conference;
- b. Set or reset the time of Trials, Settlement Conferences, or hearings;
- c. Limit, schedule, or discuss discovery;

- d. Schedule disclosure of expert witnesses;
- e. Bifurcate issues for Trial;
- f. Appoint court experts upon stipulation and allocate the expenses for the appointments, or schedule a hearing for appointments of court experts and the allocation of the expenses for the experts;
- g. Appoint an attorney for a minor child;
- h. Refer appropriate cases to some form of alternative dispute resolution;
- i. Require filing of preliminary stipulations, if issues can be narrowed;
- j. Make special references in accordance with law;
- k. Review case management options under Family Code section 2451;
- l. Take such other actions as permitted by law which would tend to promote a just and efficient disposition of the case;
- m. Schedule further Family Law Case Management Conferences as needed in the case;
- n. Order the parties to participate in an early neutral evaluation concerning their case;
- o. Refer the parties to Family Court Services for custody and visitation mediation; or
- p. Enter judgment.

(Effective 7/1/07; revised and renumbered 7/1/08; revised and renumbered 1/1/11; revised and renumbered 7/1/11)

## **7.7 Ex Parte Matters**

The ex parte procedure shall not be used as a means to avoid calendaring requirements for non-emergency matters. Applicants should be prepared to make a showing justifying their need to proceed ex parte.

- A. Scheduling.** All applications for ex parte relief will be heard in open court Monday through Friday. The time and department assigned for ex parte hearings may be found at <http://www.napa.courts.ca.gov>. Ex parte matters are scheduled for hearing by contacting Judicial Reception. When scheduling the matter, the moving party must identify the case name, the case number if assigned, any related case numbers, a brief description of the relief being sought, whether notice has been given, the name of opposing counsel if any, whether opposition is expected, the name of counsel for the moving party if any, and a contact phone number.

**B. Notice**

1. Duty to Provide. Parties shall comply when applicable with Code of Civil Procedure section 527.6, Family Code sections 241, 2045, and 3060 - 3064, and California Rules of Court, rules 3.1200 - 3.1207 and 5.118, including all requirements for a declaration setting forth that notice to the other party has been given or, alternatively, the reason notice has not been given. The applicant may use Declaration re Notice of Ex Parte Hearing, a local form available on the court's website at <http://www.napa.courts.ca.gov>.

2. Timing. A party seeking an ex parte order shall notify all parties, or their attorneys if represented, no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances.

3. Manner. Notice of the application shall be by the means most likely to result in actual notice, including telephone, e-mail, text message, personal delivery, and/or facsimile transmission. Service by mail is allowed only when other forms of notice are not possible. If notice by mail is used, the notice must be mailed to allow for delivery at least one (1) court day before the hearing.

4. Service of Moving Papers. Parties appearing at the ex parte hearing shall serve the ex parte application or any written opposition on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing shall be conducted unless such service has been made.

**C. Supporting Declarations**

1. General Requirements. Declarations in support of the application must be based on the declarant's personal knowledge. The declaration must in itself be adequate and supported by admissible evidence to warrant the relief requested. It cannot contain hearsay statements of persons other than the declarant, and it cannot be augmented by oral statements to the court. There is an absolute duty to disclose the fact that a requested ex parte order will result in a change of the status quo.

2. Custody and Visitation Orders. The family law court will not grant ex parte orders changing the status quo of visitation and/or custody of the child unless there is a very strong factual showing of grave danger or severe detriment. In the absence of grave danger or severe detriment, custody and visitation matters must be properly set on the appropriate family law calendar or noticed for hearing with both parties present and afforded the opportunity to be heard. (Effective 7/1/93; renumbered 1/1/11; revised and renumbered 7/1/11; revised 7/1/12)

3. Temporary Restraining Orders. Declarations submitted to the court with a request for an ex parte temporary restraining order must specifically include the date(s) of the incidents, a description of the facts in detail, and the specific harm caused or threatened, upon which the party is seeking extraordinary relief. Conclusions, feelings, wishes, or fears will not adequately support an ex parte order. (Effective 7/1/02; renumbered 7/1/07; renumbered 1/1/11; revised and renumbered 7/1/11)

4. Exclusive Use of Vehicles. No ex parte order will be granted giving one party the exclusive use of a vehicle unless the declaration demonstrates that the opposing party has suitable transportation available or requires no such transportation, or for other good cause. (Effective 7/1/02; renumbered 7/1/07; revised and renumbered 7/1/11)

5. Exclusive Use of Residence. No ex parte order will be granted removing a party from a residence except in cases of domestic violence where the moving party's declaration sets forth facts required by Family Code section 6321. (Effective 7/1/02; renumbered 7/1/07; revised and renumbered 7/1/11)

**D. Filing.** Moving papers shall be filed with the clerk no later than one hour before the time set on the scheduled date of the ex parte hearing. All ex parte applications must be reviewed by the clerk to determine compliance with these rules, and only after being initialed by a clerk will they be submitted to the court for hearing.

**E. Appearance.** If the moving party does not appear at the scheduled time for hearing, the ex parte application will be denied.

(All sections/subsections without parenthetical history, effective 7/1/11)

## 7.8 Master Family Law Calendar

At the Master Family Law Calendar call, counsel or self-represented parties shall state their names, appearances, whether moving or responding, and an accurate time estimate for the hearing on the matter of issues not agreed upon, including preliminary statements, testimony, and closing comments. The court will assign all matters to a department on a date and time certain within that

calendar week subject to availability. Counsel and the parties must be prepared to proceed at the time of hearing.

The court will grant priority, where possible, to matters where special circumstances exist (*e.g.*, out-of-town counsel or parties, witnesses under subpoena or present in court). At the calendar call, the court will give preference to stipulations, requests for continuances, and uncontested matters. Matters set for hearing on the master calendar will be continued only in accordance with subsection D.

- A. Conflict With Other Court Appearance.** Counsel are expected to arrange for coverage or to arrange continuances with the court and all parties or counsel for parties in the event of calendar conflicts. (Effective 7/1/02; renumbered 7/1/07; renumbered 1/1/11; revised and renumbered 7/1/11)
- B. Setting Trials.** After the filing of an At-Issue Memorandum, the court will place the matter on the master calendar for setting of trial. The court will provide notice to the parties.
- C. Matters Taken Off Calendar.** After service of the moving papers, no matter shall be taken off calendar without stipulation or notice to the responding party or attorney and the court. The moving parties or their attorneys must notify the civil division immediately by telephone in the event the matter will not proceed to hearing. This notification should be followed by a written transmittal signed by the party and/or the attorney confirming that the matter is to be taken off calendar with a copy to opposing counsel or the party. (Effective 7/1/02; renumbered 7/1/07; renumbered 1/1/11; renumbered 7/1/11)
- D. Continuances.** After service, three (3) continuances, not counting those needed for further child custody and visitation mediation, may be obtained by agreement upon payment of the continuance fee. Additional continuances may not be by stipulation but only by appearance and order of the court upon a showing of good cause.

1. Stipulations. If a written stipulation for a continuance and fee is received by 1:00 p.m. one (1) court day before the Master Family Law Calendar, the court date will be continued by the court in accordance with the stipulation and no appearances are necessary at the Master Family Law Calendar. (Revised 1/1/13)

2. Special Set Hearings. No continuances will be granted for those matters specially set. Rather, the parties must drop and re-file the matter. If the matter has settled, the parties must appear in court and announce the stipulation on the record or provide the court with a written stipulation.



3. Special Set Long Cause (More Than One Day) Hearings.  
Continuances shall only be granted upon a showing of good cause upon a properly noticed motion to continue.

4. Fees. If a stipulation is filed, both parties shall split the continuance fee unless otherwise agreed. If one side requests a continuance, the requesting party pays the continuance fee. There is no fee if the continuance is for further child custody and visitation mediation or if minor's counsel requests the continuance. There is no fee for a party who has been granted a fee waiver.

(All sections/subsections without parenthetical history, effective 7/1/11)

### **7.9 Unserved Request for Order**

If a Request for Order cannot be timely served, the parties should use the Judicial Council Application for Order and Reissuance of Request for Order. They must also attach an endorsed copy of the unserved Request for Order to the Application. (Effective 7/1/02; revised 1/1/07; renumbered 7/1/07; renumbered 1/1/11; revised 7/1/11; revised 7/1/12)

### **7.10 Orders Shortening and Extending Time**

An order shortening time for hearing or service or extending the duration of ex parte orders shall be heard on the ex parte calendar and will not be granted unless supported by a declaration demonstrating good cause. If an order shortening time for service is requested, the supporting declaration must state whether or not the responding party is represented by counsel, the name and address of the responding party's attorney, and whether or not that attorney has been contacted and has agreed to the date and time proposed for the hearing. If the responding party's attorney has not been contacted or has not agreed to the proposed setting, the supporting declaration must clearly demonstrate why the hearing should be set on the proposed date without the consent of responding party's attorney. Provision for immediate delivery of the pleading to responding party's attorney should be set forth in the order.

A declaration in support of an order shortening time for hearing or service must show emergency circumstances. However, if the application only seeks to shorten time for hearing or service of moving papers by a respondent seeking affirmative relief at a hearing already set, emergency circumstances need not be shown.

Anticipated problems in serving a responding party will not be sufficient basis for an order shortening time for service.

(Effective 7/1/02; revised and renumbered 7/1/07; renumbered 1/1/11; revised 7/1/11)

## 7.11 Hearings - General

- A. Presence of Parties and Attorneys.** If a party or attorney cannot personally appear because of illness, extreme economic hardship, or other good cause, that party or his or her attorney must immediately contact the other party and every reasonable effort shall be made to continue the hearing. In the absence of a negotiated continuance or settlement, the party must file a declaration detailing the communication or attempted negotiations with the other party and a request for a reasonable continuance.
- B. Failure to Appear.** Failure of the moving party or attorney to be present at the calendar call or to have informed the clerk of his or her presence shall result in the matter being removed from the calendar, and if the responding party has appeared, attorney fees and costs may be awarded to the appearing party. In the event the responding party fails to appear, the court may continue the matter and award attorney fees or enter an order on the pleading and testimony of the moving party.
- C. Tardiness.** If for any reason an attorney or party is unable to be present at the time of the calendar call, the court and opposing party must be notified immediately by telephone of the reasons for, and the extent of, such delay.
- D. Pre-Hearing Settlement Efforts.** No case on any family law calendar will be heard unless and until counsel, with their respective clients either physically present or immediately physically available, have met and conferred in a good faith effort to resolve all issues. All relevant documents shall be exchanged by counsel while conferring absent good cause to the contrary. Failure to so meet and confer may result in the matter being dropped from calendar or continued, or rejection of documents not so exchanged, or other appropriate sanctions.

Counsel for the moving party is expected to contact opposing counsel in advance of the hearing to ascertain whether the issues can be settled without a contested hearing. Failure to make such contact and conduct settlement in good faith may have a bearing on attorney fees to be awarded and/or sanctions to be imposed.

Copies of all documents intended to be offered as part of the case in chief must be provided to opposing parties prior to the court hearing so that meaningful settlement discussions can occur. An exception applies if a document clearly and substantially impeaches the veracity of a party or witness and is to be offered for that purpose.

- E. Calling the Case.** At the hearing, the moving party or the moving party's attorney will be asked to state the issues. The responding party will be asked to concur in moving party's statement of issues and to state any additional issues. Attorneys are expected to be thoroughly prepared to answer the questions of the court concerning the facts of the case and cite applicable statutory and case law if an unusual or

contested point of law is involved. Live testimony will be received or disallowed in accordance with Family Code section 217.

(Effective 7/1/02; revised 7/1/06; 7/1/08; renumbered 1/1/11; revised 7/1/11)

## **7.12 Preparation of Order After Hearing**

The prevailing party must submit an Order After Hearing in accordance with California Rules of Court, rule 3.1312, unless the court orders otherwise. If a transcript has been ordered within five (5) calendar days of the hearing and paid for in a timely manner, the order shall be prepared within five (5) calendar days of receipt of the transcript. If there is a disagreement between the parties concerning the accuracy of the prepared order, then either party may request the court to compel entry of the order and refer the court to applicable portions of the hearing transcript. Attorney fees and costs, including costs of preparing the reporter's transcript, may be awarded depending upon the merits. (Effective 7/1/02; renumbered 1/1/11; revised 7/1/11)

## **7.13 Contempt**

After a contempt hearing, it is the responsibility of the moving party to prepare an order for the signature of the judge, setting forth the findings and orders of the court. The party or attorney preparing the order after hearing must set forth all findings of the court: Factual findings of the existence and current validity of a described order, knowledge of the contemnor of that order, ability to comply with the order, the violation of that order, and the willfulness of that violation. Thereafter, there shall be set forth the orders of the court with regard to the finding of contempt and the sentencing. No contempt order will be signed by the court without compliance with the foregoing. (Effective 7/1/02; renumbered 1/1/11; revised 7/1/11)

## **7.14 Settlement Conferences**

- A. Mandatory Settlement Conferences.** All long-cause matters (estimated to take more than one day) shall be set for a mandatory Settlement Conference.
- B. Voluntary Settlement Conferences.** A Settlement Conference may be held upon request of both parties and with the approval of the court. The Settlement Conference shall be calendared on the Master Family Law Calendar, either by motion or upon request of both counsel at the Family Law Case Management Conference. The Settlement Conference will be assigned to a department on a date and time certain within that calendar week subject to availability. Each party and the attorney for each party must personally attend the Settlement Conference unless specifically excused by the court. A voluntary Settlement Conference should not be calendared until the case is adequately prepared and ready for a meaningful Settlement Conference.
- C. Unrepresented Parties.** If either party is self-represented, the court will not hold a settlement conference.

- D. Discovery.** Discovery must be completed not later than five (5) court days prior to the Settlement Conference, except upon order of court for good cause. (Effective 7/1/02; renumbered 1/1/11; renumbered 7/1/11)
- E. Meet and Confer Requirement.** The parties or their attorneys must meet and confer in good faith, in person or telephonically, no later than two (2) court days before the Settlement Conference in an attempt to resolve issues, stipulate to facts, and delineate the issues remaining for resolution at the Settlement Conference.
- F. Settlement Conference Statements.**

1. Time Requirements. At least two (2) court days before the Master Family Law Calendar from which the Settlement Conference is to be assigned, or at least five (5) calendar days before a specially set Settlement Conference, each party must prepare, lodge with the court, and serve on the other party a Settlement Conference Statement as set forth below. If service is by mail, an additional five (5) calendar days' notice is required.

2. Contents.

a. Caption. The caption shall contain the time and Master Family Law Calendar date and trial date if set.

b. Income and Expenses. In all cases where support or attorney fees is in issue, a current Judicial Council Income and Expense Declaration shall be prepared, signed, and dated. In addition, all income and other financial information as required by Local Rule 7.17 shall be attached.

c. Assets & Liabilities. In all cases where property issues (characterization, division, and/or valuation) are unresolved, each party must prepare a comprehensive inventory of all assets (real and personal) and liabilities claimed by the parties to be community property and/or community debt. This inventory can either be typed on applicable Judicial Council forms, or may be prepared in any form which contains substantially the same information as set forth on the Judicial Council forms.

The parties must attach to their Settlement Conference Statements copies of the completed inventory assets and liabilities forms indicating their claim to values and proposal for division of the property.

In all cases where the characterization of real or personal property of the parties (whether community or separate) or reimbursement for contributions to the community from a separate property source is in issue,

the parties must set forth all of the facts upon which their claims are based and cite appropriate legal authorities for each of those claims.

d. **Contentions About Child and Spousal Support.** Both parties shall specify their contentions as to the amount of child support and amount and duration of spousal support. Include calculations showing guideline child support. If any child is a recipient of public assistance, and the Department of Child Support Services is the assignee of the support, the statement shall show that the Department of Child Support Services has been notified of the time and date of the Settlement Conference and provided copies of all pertinent, current financial documents (*i.e.*, Income and Expense Declarations, support calculations, etc.).

e. **Contentions About Attorney Fees, Accountant Fees, Expert Fees, and Costs.** Both parties shall include in their statement their position regarding requests for attorney and accountant fees, other expert fees, and court costs. Where appropriate, such requests shall be supported by adequate documentation.

(Effective 7/1/02; revised 1/1/07; renumbered 1/1/11; revised and renumbered 7/1/11)

## **7.15 Trial Exhibits**

See Local Rule 6.5, “Trial Procedures”. (Effective 7/1/02; renumbered 1/1/11; renumbered 7/1/11)

## **7.16 Child Custody and Visitation**

### **A. Mediation.**

1. **Mandatory Mediation.** In all proceedings where there is a contested issue regarding the custody or visitation of a minor child, the matter shall be set for mediation of the contested issues pursuant to section 3107, et seq., of the Family Code and these rules. Every Request for Order or motion concerning custody and visitation shall include the following order: “The parties are ordered to attend orientation and mediation prior to the court hearing.” The mediation order on the Request for Order or motion shall be submitted to clerk’s office for the judge’s signature. (Effective 1/1/99; renumbered 1/1/11; revised and renumbered 7/1/11; revised 7/1/12; revised 1/1/13)

2. **Orientation Class.** Prior to the mediation session, each party is ordered to attend an orientation class scheduled and conducted by Family Court Services. Only those parties who completed the orientation within five (5) years prior to the mediation session are exempt from attending this orientation. If exceptional circumstances exist, the court or Family Court Services may exempt a party from attending orientation or refer the party to an on-line orientation.

3. Attendance and Participation of Parties. The court may sanction any party who fails to attend orientation or mediation. Sanctions may include, but are not limited to, monetary fines, denial of relief sought, dismissal of the Request for Order or motion, entry of substantive orders, or contempt. (Effective 7/1/11; revised 7/1/12)

4. Non-Recommendation Confidential Mediation. Mediation sessions are confidential subject to California Rules of Court regarding minor's counsel. The mediator conducting a confidential mediation will not make a report or recommendation to the court except as follows:

a. Child at Risk. The mediator is required to make a report to Child Protective Services if the mediator believes a child is at risk of child abuse or neglect.

b. Threats of Death or Bodily Harm. The mediator is required to report death threats or threats of bodily harm made to a party, any other person, or to them.

c. Recommendations for Appointment of Attorney for Child. The mediator may recommend that the court appoint an attorney to represent any child involved in a custody or visitation proceeding.

d. Recommendations for Custody Evaluation. The mediator may recommend that the court order a custody evaluation.

e. Non-Agreement of the Parties. If the parties do not reach an agreement on any or all of the pending issues, the mediator will schedule a court hearing date and notify the parties and court. The Return from Family Court Services shall advise the court of the number of mediation appointments, the number of appointments attended by both parties, and the number of appointments missed or cancelled by any party.

5. Ex Parte Communication. Absent a stipulation to the contrary, and except as provided in Family Code section 216, there must be no ex parte communication between the attorney for either party or minor's counsel and the mediator except to schedule appointments. No attorney or party to the action may provide a mediator with documents about the case without first giving the other party and minor's counsel a copy of the documents.

6. Attendance and Participation of Interpreters in Mediation. A neutral person who is fluent in both English and the party's native language may interpret for a party in mediation if there is no mediator available to conduct the mediation in that party's native language. Individuals who serve in this capacity

will be required to sign a confidentiality agreement. In no case may a minor child of the parties serve as an interpreter.

7. Agreement of the Parties. If an agreement is reached in mediation, the mediator will prepare a written agreement. Parties will approve and be given a copy of their agreement before leaving the mediation offices. Attorneys will have an opportunity to review and approve, or disapprove, the agreement. If the agreement is approved by the parties and their attorneys, the agreement will be presented to the court for approval and will become a court order once signed by the court.

8. Mediator May Not Be A Witness. The confidential mediator may not be called as a witness at future court hearings regarding any matter discussed during confidential mediation.

9. Same Day Mediation. Where the court determines that there is an urgent need for mediation, the parties may be referred for same-day mediation. These sessions are limited in time and focus on the single issue identified by the court.

10. Subsequent Mediation. Without first filing a Request for Order or a motion, parties may return to mediation within one year of the date of the original mediation referral if both parties are willing to participate.

a. Each party must call Family Court Services to schedule a date and time for the mediation.

b. The court or Family Court Services, in its discretion, may waive mediation if a Request for Order or a motion is filed following an unsuccessful subsequent mediation.

(Effective 7/1/11; revised 7/1/12)

11. Mediation Complaints and Requests for New Mediator.  
Complaints regarding a mediator are handled as follows:

a. Complainant shall complete a form provided by Family Court Services and mail or deliver it to the Court Executive Officer.

The Court Executive Officer or his/her designee ("investigator") will conduct an investigation of the matter including consultation with the mediator(s) assigned to the case. Within 15 days, the investigator will determine whether to replace the challenged mediator, add a second mediator to the case, or take no action. The date and action will be recorded

by the investigator and the complainant will be informed promptly in writing. The investigator's decision is final.

(Effective 7/1/11; revised 7/1/13)

**B. Appointment of Counsel for the Child**

1. Generally. In any proceeding covered by the family law rules, the court may, if it finds it would be in the best interest of the minor child, appoint private counsel to represent the interests of the child. (Fam. Code § 3151)

2. Compensation. When the court appoints counsel to represent the minor, counsel shall receive a reasonable sum for compensation and expenses. Compensation and expenses shall be determined by the court and paid by the parents in such proportion as the court deems just, or by the county pursuant to Family Code section 3153.

3. Complaints. Complaints regarding the conduct of or procedures employed by counsel for minor children appointed by the court must be made in writing to the Supervising Family Law Judge. A copy of the complaint must be provided to all parties. The court must determine what action, if any, to take including whether the complaint should be referred to the appropriate professional licensing board. The court must provide a written response to all parties and minor's counsel.

(Effective 1/1/99; revised and renumbered 1/1/11; revised and renumbered 7/1/11)

**C. Court-Ordered Child Custody Evaluations**

1. Peremptory Challenges. The parties and minor's counsel are each permitted one peremptory challenge to a child custody evaluator appointed by the court. Unless waived, a peremptory challenge must be made within five (5) court days of notice of the appointment. Minor's counsel appointed after the expiration of the time allowed to the parties to make a peremptory challenge under this rule may not make a peremptory challenge to the evaluator.

2. Withdrawal From a Case. An evaluator may request to withdraw from a case by delivering a written declaration demonstrating good cause under penalty of perjury to the judicial officer assigned to the case and must give copies of the request to all parties and minor's counsel. Any objections to the request to withdraw must be filed with the court and served on the evaluator, all parties, and minor's counsel within ten (10) days' notice of the request to withdraw. After time for filing of objections to the request to withdraw has expired, the court may, upon a finding of good cause, grant the request to withdraw, deny the request, or set a noticed hearing to resolve the issue.



3. Complaints Regarding Evaluators. Complaints regarding the conduct of, or procedures employed by, a private child custody evaluator must be made in writing to the judicial officer assigned to the case. A copy of the complaint must be provided to the evaluator, all parties, and to any minor's counsel. The court must determine what action, if any, to take including whether the complaint should be referred to the appropriate professional licensing board.

4. Requests for Removal of Evaluator. A request for the removal of an evaluator must be made by noticed motion, filed with the judicial officer assigned to the case, and served on the evaluator, all parties, and minor's counsel, if applicable.

5. Ex Parte Communications. Unless there is a stipulation, ex parte communication by counsel with the evaluator is prohibited, except to schedule appointments. An attorney for a party or minor's counsel must not provide the evaluator with documents pertaining to the case without first providing the other side and minor's counsel, if any, with a copy of the documents.

6. Locating Qualified Private Child Custody Evaluator. The court has prepared an information sheet on how to find qualified child custody evaluators. (See Appendix A)

**D. Court Communication Protocol for Domestic Violence and Child Custody Orders.** Before issuing a criminal or non-criminal protective order or a custody or visitation order, the court should inquire of all parties and the attorneys whether there are any cases in any jurisdiction in which there are criminal or civil protective orders, custody and visitation orders, or Child Protective Services investigations that involve the child of the parties in the current case.

(All sections/subsections without parenthetical history, effective 7/1/11)

#### **7.17 Requirements in Financial Matters.**

**A. Income and Expense Declaration.** A current Judicial Council Income and Expense Declaration must be filed with both the moving and responsive papers for any hearing involving financial issues, including support and attorney fees and costs. An Income and Expense Declaration is current if it has been completed within three months of the hearing and providing no facts have changed. Supplemental, updated, or responsive Income and Expense Declarations must be served at least five (5) court days before the hearing. All portions of the form must be completed. Insertion of the word "unknown" does not constitute compliance with this rule. The gross income of all persons living with the party must be included as provided on the Income and Expense Declaration. All cash,

funds on deposit, stocks, bonds, and other easily sold assets must be fully disclosed.

To verify current income, parties must serve copies of the following documents with their Income and Expense Declaration if they are not otherwise required to be attached to the Income and Expense Declaration. Documents that are required by this rule to be served with the Income and Expense Declaration may be lodged with the court at the time of the hearing:

1. For salaried employees: The prior calendar year W-2 and all pay stubs for the last two (2) months showing all forms of year-to-date earned income.

2. For self-employed individuals, including independent contractors: A schedule reflecting all compensation received year-to-date and the last two (2) filed IRS 1040 Schedule C or C-EZ; profit-and-loss statements and balance sheets for the two (2) prior calendar years and the current year-to-date.

3. For employees who are shareholders in a closely-held corporation: The prior calendar year W-2; all pay stubs for the last two (2) months showing all forms of year-to-date earned income; all IRS K-1s for two (2) prior years; the last filed IRS Schedule E (Part II); profit and loss statements and balance sheets for the two (2) prior calendar years and the current year-to-date.

4. For partnership income: A schedule reflecting all compensation received year-to-date, all IRS K-1s for the two (2) prior years; the last filed IRS Schedule E (Part II); profit and loss statements and balance sheets for the two (2) prior calendar years and the current year-to-date.

5. For rental income: The last filed IRS Schedule E (Part I); summaries of all rental receipts, deposits, disbursements, and expenses for the prior calendar year and for all periods year-to-date.

6. For dividend income, interest income, trust income, or other unearned income: The prior calendar year IRS 1099s; the last filed IRS Schedule B; an itemized summary of all funds on deposit, shares of stock, bonds, or other income-producing assets owned, and the rate of return currently being paid thereon; and any income derived there from during the prior calendar year, and year-to-date.

**B. Disclosure of Income Tax Returns.** Parties shall bring a copy of their most recent federal tax return to the hearing. In addition, when child, family, or spousal support is requested, a party may require the opposing party to provide copies of both state and federal income tax returns pursuant to Family Code section 3552. A request for tax returns must be made no later than 10:00 a.m. five (5) court days before the hearing. Copies of the tax returns including all

schedules, W-2s, 1099s and K-1s must be provided to the requesting party or counsel the earlier of five (5) court days after the request or 10:00 a.m. two (2) court days before the hearing. Tax returns served pursuant to this rule must not be filed with the court except as provided in Family Code section 3552.

- C. Child and Temporary Spousal Support Guidelines.** The court uses the DissoMaster™ computer program to calculate guideline child support (except in Department of Child Support Services enforcement actions) and temporary spousal support. In calculating temporary spousal support, the court uses the “Santa Clara” formula as contained within the DissoMaster™ computer program.
- D. Deviations from Guideline Child Support or Temporary Spousal Support.** Unless otherwise allowed by the court, if a party contends that the amount of support as calculated under the guideline formula is inappropriate, that party must file a declaration stating the amount of support alleged to be proper and the factual and legal bases justifying a deviation from guideline support. In its discretion, for good cause shown, the court may deviate from the amount of guideline support resulting from the computer calculation.
- E. Request for Attorney Fees.**
1. Attorney Declaration. Any request for attorney fees or costs in excess of \$2,000 must be accompanied by a factual declaration completed by the attorney. The declaration must state the attorney’s hourly rate, the amount of fees already paid, the source of payment for fees already paid, the amount of fees due and payable, how fees requested were or will be spent, and identification of a source for payment of the fees. The declaration shall further state such facts as may be relevant to the court’s determination of the reasonableness of the fees.
  2. Bifurcation Re: Fees and Costs. Where counsel requests fees pursuant to Family Code section 271, the court will defer any decision until all other issues have been determined and will not receive an attorney's declaration relating thereto until commencing consideration of the attorney fee issue.
- F. Request for Expert Fees.** Any request for expert fees must be accompanied by a factual declaration completed by the expert. The declaration must state the expert’s hourly rate, the scope of the expert’s task, and an estimate of the number of hours required to complete the task.
- G. Request for Modification of Prior Support Orders.** The supporting declaration submitted in support of any request for modification of a prior child or spousal support order must include specific facts demonstrating a change of circumstances.

(Effective 7/1/11)

**7.18 Department of Child Support Services Matters**

- A. Application of General Family Laws.** Except as otherwise provided in this section, all Local Rules applicable to Family Law generally apply to cases enforced by the Napa Department of Child Support Services (“IV-D cases”). To the extent that the rules in this section conflict with rules applicable to Family Law rules, the rules in this section shall prevail in IV-D cases.
- B. Appearance by the Napa Department of Child Support Services.** Child Support Services will be deemed to have appeared in any action filed by the department initially and in any case in which a Notice Regarding Payment of Support has been filed indicating Child Support Services is providing services. (Cal. Rules of Court, rule 5.360) Once an appearance has been made by Child Support Services, all attorneys and parties shall give notice to Child Support Services of all moving papers and stipulations involving support according to the timelines for service otherwise required by law.
- C. Independent Enforcement Action.** Before independent enforcement actions may be taken to enforce a IV-D order, a Judicial Council Notice to Local Child Support Agency of Intent to Take Independent Action to Enforce Support Order must be executed and served in accordance with Family Code section 17402(f)(2).
- D. Proceeding Before IV-D Commissioner.** Pursuant to Family Code section 4251 and California Rules of Court, rule 5.305, all IV-D cases shall be assigned to a IV-D Commissioner. Under some circumstances such as the unavailability of a IV-D Commissioner, a judge may preside. All attorneys and parties are put on notice that objections to a hearing in front of a commissioner must be made in accordance with the procedure outlined in Family Code section 4251.
- E. Dedicated Calendar.** IV-D cases are set on a dedicated weekly calendar. Attorneys and parties must be prepared to proceed to hearing at that time. All motions involving support in which Child Support Services has appeared shall be scheduled for the dedicated calendar absent a finding of good cause.
- F. Income and Expense Declarations.** Local Rule 7.17 involving the production of a current Income and Expense Declaration and supplemental financial records applies to all IV-D cases.
- G. Stipulations.** All stipulations in a IV-D case must be presented to Child Support Services for approval before submission to the court. (Fam. Code § 4065(c))
- H. Child Support Calculations.** All IV-D cases shall use the CSE-CCSAS Guideline calculator for purposes of determining the guideline child support

obligation. A public version of the CSE-CCSAS guideline calculator can be accessed by litigants at no charge on the website [www.childsup.ca.gov](http://www.childsup.ca.gov).

- I. Special Rule for Compliance with IV-D Orders.** Unless otherwise indicated in the order, in any case in which a litigant is required to go to Child Support Services and/or to deliver an item to Child Support Services, the address for compliance with that order is: Napa County Child Support Services, 929 Parkway Mall, Suite 247, Napa, CA 94559.
- J. Telephonic Appearances.** Telephonic appearances in Title IV-D child support hearings and conferences will be permitted as set forth in California Rules of Court, rule 5.324.

(Effective 7/1/11)

#### **7.19 Default or Uncontested Judgments**

- A. By Affidavit or Declaration.** No court appearance is necessary unless the court requires it, in which case the court shall so notify the parties. To obtain a Judgment of Dissolution or Legal Separation by declaration (non-appearance) pursuant to Family Code section 2336, the following completed forms must be submitted to the clerk:

- 1. Declaration for Default or Uncontested Dissolution, signed by one of the parties. The relief sought in the declaration must agree with relief sought in the Petition if there is no agreement. If either party is receiving public assistance, that fact shall be stated.

- 2. Current Income and Expense Declaration if (1) support is to be ordered, (2) there are minor children and child support is not reserved, or (3) the marriage has existed for ten (10) years or more, unless parties have otherwise agreed in a Marital Settlement Agreement or stipulation.

- 3. Request to Enter Default or Appearance, Stipulation and Waiver form, whichever applies.

- 4. Original and two (2) copies of Judgment.

- 5. Original and two (2) copies of Notice of Entry of Judgment.

- 6. Two (2) pre-addressed, stamped envelopes with proper postage for the parties, with a return address of the Napa County Superior Court

- B. Acknowledgment of Receipt and Proof of Service.** Unless the court orders otherwise, a default will not be entered based on a Notice and Acknowledgment

of Receipt signed by a person other than the party to whom it is directed. In addition, no default will be entered without filing a Proof of Service of Summons with the clerk.

- C. Child Support, Spousal Support, or Attorney Fees Awards.** No award of child support, spousal support, or attorney fees will be granted unless there is either an attached written agreement between the parties settling those issues, or there is sufficient information on which the court may base an order, including a fully completed and executed Income and Expense Declaration (with information on both parties where available) and a support calculation, if applicable. If either party is receiving public assistance, the signature of an attorney in the Department of Child Support Services consenting to the child support provision must be affixed to the judgment. The judgment shall contain a provision for medical support pursuant to Family Code sections 3750 - 3753.
- D. Community and/or Separate Property and Debts.** No division of community property (assets or debts) or confirmation of separate property will be ordered unless there is either an attached written agreement between the parties settling those issues, or there is a completed Property Declaration attached to and served with the Request to Enter Default.
- E. Custody and Visitation.** Where the judgment is taken by default and either supervised visitation or denial of visitation is requested, unless a written agreement of the parties concerning custody and visitation is submitted with the judgment, a factual declaration under penalty of perjury shall be submitted with the judgment. The declaration shall be mailed to the defaulting party with the Request to Enter Default, and proof of mailing shall be filed with the Court. The declaration shall include the following:
1. Where a party is seeking to deny visitation between a child and the defaulting party: The specific reasons visitation should be denied; the date upon which the last visitation between the child and the defaulting party occurred; and a statement that the whereabouts of the defaulting party is unknown, or, if known, the defaulting party's address.
  2. Where a party is seeking supervised visitation between a child and the defaulting party: The reasons such visitation should be supervised; when and where supervised visitation should occur; the name and address of the person or agency who/which will perform the supervision; and the method by which the supervisor is to be compensated.

3. Other information. The date upon which the parties separated, the identity of the primary caretaker of the child during the last six (6) months, and the extent of contact between the child and the non-caretaker parent during that time.

(Effective 7/1/11)

## 7.20 Contested Judgments

- A. **Preparation of Judgment.** Following trial, unless a statement of decision is required, the party directed by the court to do so shall prepare the judgment in accordance with the court's decision no later than 20 days after the decision is received. The judgment so prepared shall be served upon the other party who shall, within ten (10) days of receipt, either approve or refuse to approve the judgment, in writing. If approval is refused, alternative proposed language shall be submitted in writing to the preparing party.
- B. **Failure to Approve or Submit Alternative Judgment.** If the responding party fails to approve the judgment or submit alternative language, the preparing party may present the proposed judgment to the court for signature together with a declaration (with a copy to the responding party), stating that the judgment was served upon the responding party on a certain date and describing the circumstances surrounding the responding party's failure to approve the judgment. If the responding party has submitted alternative proposed language to the preparing party, the preparing party shall submit both proposed forms of judgment to the court, and the court shall select, modify if appropriate, and sign that form of judgment which best reflects the court's decision.
- C. **Failure to Prepare and Serve.** If the party directed to prepare the judgment fails to prepare and serve the judgment as required, then the other party may prepare the proposed judgment and mail it directly to the Court without seeking the approval of opposing counsel, along with a letter to the Court (with a copy to the opposing party) setting forth the applicable dates according to this rule and requesting the Court to sign it.

(Effective 7/1/11)

## 7.21 Family Law Facilitator

The Napa County Superior Court has established an office of family law facilitator for self-represented parties. The court will make referrals to the family law facilitator as appropriate. By this rule, the court designates and establishes in the office of the family law facilitator all the duties prescribed or permitted by the Family Law Facilitator Act, Family Code section 10000, et seq.

(Effective 7/1/02; renumbered 1/1/11; renumbered 7/1/11)

**RULE 8: ADOPTION PROCEEDINGS**

**8.1 Adoption Hearings**

Adoption hearings will be scheduled at the request of petitioner or counsel on any probate court appearance calendar. All proposed reports, orders, accounting, agreements, consents, and other pleadings required by law shall be on file prior to scheduling a hearing. (Effective 1/1/99)

**8.2 Access to Adoption Files**

Pursuant to Family Code section 9200, applicants seeking access to adoption files shall set forth a detailed factual showing sufficient to establish good cause approaching the necessitous. Parties shall use the Petition to Inspect Adoption Records, a mandatory local form available on the court's website at <http://www.napa.courts.ca.gov>. (Effective 7/1/93; revised 7/1/08; revised 1/1/12; revised 1/1/13)



**RULE 9: PROBATE**

Except as otherwise specified by these rules, the procedures set forth in California Rules of Court and the Probate Code govern all probate proceedings. (Effective 7/1/02)

**9.1 Preparation of Orders**

All motions and petitions must be accompanied by a proposed Order or Letters. (Effective 7/1/02; renumbered 1/1/11)

**9.2 Pre-Approved Probate Calendar -- See Tentative Ruling System, Local Rule 2.9**

Routine, unopposed probate matters submitted by counsel and approved by a tentative ruling, with the exception of the matters listed in rule 9.3, do not require appearance by counsel. If the matter is not approved by tentative ruling, the tentative ruling will state that the court is either continuing the case for two (2) weeks for any defects to be remedied, or placing the matter on the calendar for appearance by counsel. For approved matters, the court will file the Order and/or Letters and return up to two (2) endorsed copies to counsel's courthouse folder. Counsel requiring return of endorsed copies by mail must submit a pre-addressed stamped envelope. (Effective 7/1/02; renumbered 1/1/11)

**9.3 Matters Requiring Appearance**

The following probate matters require appearance of counsel or parties at the hearing:

- A. Application for appointment of conservator;
- B. Termination of conservatorship (other than by death of the conservatee);
- C. Contested matters;
- D. Other matters at the request of the court.

(Effective 7/1/02; renumbered 1/1/11)

**9.4 Guardianship Investigations – Mandatory Orders – Local Forms**

Every petition for appointment of a guardian of the minor shall be accompanied by a proposed order for investigation, using the appropriate Napa Superior Court mandatory form, which can be found on the court's website at <http://www.napa.courts.ca.gov>. A copy of the signed order for investigation must be served on Child Welfare Services within two (2) court days of being signed by a judicial officer. (Effective 7/1/12; revised 1/1/13)

## **9.5 Conservatorship Investigations – Standing Orders**

The Napa Superior Court Probate Investigator is hereby appointed to investigate all conservatorship matters for which a court investigation report is required by law. In these matters, no order for appointment of investigator shall be required or accepted. To avoid this automatic appointment, a petition to waive appointment must be filed. (Effective 7/1/12)

## **9.6 Costs**

Costs must be itemized. However, up to a total of \$200.00 in “miscellaneous costs” for duplication or telephone calls or the like by the personal representative or the attorney may be approved without itemizing. (Effective 7/1/93; renumbered 1/1/11; renumbered 7/1/12)

## **9.7 Compensation of Attorneys, Conservators, Guardians, Trustees, and Requests for Extraordinary Fees**

- A.** No compensation for conservators or guardians or their legal counsel, or for extraordinary fees, shall be paid without prior court approval. The court will review such fee petitions in accordance with the provisions of Rules of Court, rules 7.702, 7.703, and 7.750, et seq. Pursuant to Rules of Court, rule 7.751(b), all petitions for orders fixing and allowing compensation to a guardian or conservator or their legal counsel must comply with Rules of Court, rule 7.702.
- B.** When court approval is needed for compensation to a trustee, the amount will be determined in accordance with the provisions of Probate Code section 15680, et seq., and Rules of Court, rule 7.776. Generally, a fee of one percent of the market value of the trust assets will be considered the reasonable compensation for ordinary trustee services, although the court will entertain requests for a higher rate of compensation. If a trustee seeks additional compensation for extraordinary services, the trustee must provide the court with a detailed description of the extraordinary services rendered and the amount of additional compensation requested.
- C.** A party may aid the court in its determination of just and reasonable compensation for trustees, conservators, guardians, or their legal counsel by filing in advance of the hearing a statement addressing factors that may be considered by the court such as those provided in Rules of Court, rules 7.756 and 7.776.

(Effective 7/1/02; revised 7/1/09; renumbered 1/1/11; renumbered 7/1/12)

## **9.8 Statutory Fees and Commissions in Decedents’ Estates**

In decedents’ estates, allowances on account of statutory fees or commissions will be granted by the court only in proportion to the work actually completed. The last 25 percent of statutory fees or commissions will not be allowed before the approval of the final account and the decree of

distribution, unless it can be shown that payment of a greater amount will benefit the estate. All or substantially all of the statutory fees or commissions may be allowed when it is shown that services have been performed but that the estate has not closed because of reasons beyond the control of the petitioning party. (Effective 7/1/02; renumbered 1/1/11; renumbered 7/1/12)

## **9.9 Preliminary Distributions**

Petitions for preliminary distributions must include a statement as to why the estate may not now be closed. (Effective 7/1/02; renumbered 1/1/11; renumbered 7/1/12)

## **9.10 Payment of Court Investigator Fees**

Pursuant to Probate Code sections 1513.1 (guardianships) and 1851.5 (conservatorships), the court shall make an assessment for any investigation or review conducted by the court investigator, and shall order reimbursement to the court for the amount of the assessment, unless the court defers or waives reimbursement based on a showing of hardship. Payment of the assessed court investigator fee is due before the initial hearing date on any matter for which a court investigation was conducted. Failure to make timely payment will not delay approval of any petition or accounting, but will result in the matter being referred to the court's monetary collection program.

If the conservator, guardian, or other person liable for payment of the assessment believes the fees should be deferred or waived due to hardship, the subject petition shall include a request for deferral or waiver and shall set forth facts establishing a hardship.

(Effective 7/1/09; revised 1/1/10; renumbered 1/1/11; renumbered 7/1/12)

**RULE 10: JUVENILE COURT RULES**

**10.1 Competency Requirements for Counsel**

- A.** All attorneys who represent parties in juvenile court dependency proceedings shall meet the minimum standards of training and/or experience set forth in California Rules of Court, rule 5.660(d)(3). Each attorney of record for a party to a dependency matter who has not been previously certified under these rules, and who believes that he or she meets the minimum standards of competency, shall, within ten (10) days of his or her first appearance in a dependency matter, complete and submit to the Court Executive Officer of the court a memorandum certifying that he or she meets the standards of competence as set forth in California Rules of Court, rule 5.660(d)(3).
- B.** Attorneys who meet the minimum standards of training and/or experience as set forth here and as confirmed by the memorandum of certification submitted to the court shall be deemed competent to practice before the juvenile court in dependency cases except as provided in subdivision C of this rule.
- C.** Notwithstanding the submission of a memorandum certifying that the attorney has met the minimum standards for training and/or experience, the court may determine, based on conduct or performance of counsel before the court in a dependency case, that a particular attorney does not meet minimum competency standards. In such a case, the court will proceed under rule 10.2(D).
- D.** The Court Executive Officer is responsible for maintaining and monitoring memoranda of certification for accuracy and compliance with renewal requirements and for maintaining a roster of attorneys who meet the requirements of this rule. Appointments may only be made from the most up-to-date roster. Attorneys must submit updated certification attesting to completion of continuing education as required by California Rules of Court, rule 5.660(d)(3).
- E.** In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the juvenile court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in this county.

(Effective 7/1/02; revised 7/1/05; revised 1/1/07; revised and renumbered 1/1/12)

## **10.2 Minimum Standards of Education and Training**

- A.** Attorneys appearing in a dependency matter before the juvenile court shall not seek certification and shall not be certified by the court as competent until the attorney has completed the minimum training and educational requirements set forth in California Rules of Court, rule 5.660(d)(3), including continuing education as required, and provided evidence of completion to the Court Executive Officer as provided in rule 10.1(A).
- B.** When a certified attorney fails to submit evidence that he or she has completed at least the minimum required training and education to the court by the due date, the court must notify the attorney that he or she will be decertified. That attorney shall have 20 days from the date of the mailing of the notice to submit evidence of his or her completion of the required training or education.
- C.** After initial certification by the court, attorneys shall submit a new certificate of competence to the court at least every three (3) years. The attorney shall attach to the renewal certificate of competence evidence that he or she has satisfied the continuing education requirements of California Rules of Court, rule 5.660(d)(3).
- D.** If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education, or the court makes a finding under rule 10.1(C), the court must order, except in cases where a party is represented by retained counsel, that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the court must notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute counsel shall be solely within the discretion of the party so notified, except for child's counsel, who may be removed by the court.

(Effective 7/1/02; revised and renumbered 1/1/12)

## **10.3 Standards of Representation**

- A.** Attorneys are expected to meet with the client(s) in person before each substantive hearing, including the attorney for a child who is at least four (4) years old, unless this is impracticable. The meeting with the child should, unless impracticable due to distance from Napa, take place at the child's placement. The attorney for a child is also expected to contact the child's caretaker (if other than a parent) before each substantive hearing. Periodic review hearings are substantive.

- B.** Attorneys are expected to complete, file, and serve all necessary forms, including health questionnaire, ICWA, paternity, and waiver of rights (if appropriate), before, or the same day as, the jurisdictional hearing, and to promptly file and serve change of address and contact information for the client.

(Effective 7/1/02; revised and renumbered 1/1/12)

#### **10.4 Caseload Standards**

Every attorney appointed to represent children must take care to ensure that he or she can adequately and competently represent all of the attorney's clients in a manner consistent with the requirements of Welfare and Institutions Code section 317(c), California Rules of Court, rule 5.660, and these rules. Any attorney who is unable to meet these requirements because of the size of the attorney's caseload or the demands of a particular case or cases, must notify the juvenile court judge that the attorney is unable to accept any new cases. Further, said attorney must move to be relieved as attorney of record in any existing case in which the attorney cannot provide adequate and competent representation. Upon an adequate showing, the court must appoint substitute counsel for the child. (Effective 7/1/02; revised 1/1/07; renumbered 1/1/12)

#### **10.5 Procedures for Reviewing and Resolving Complaints**

- A.** Any party to a juvenile court proceeding may lodge a written complaint with the court concerning the performance of his or her appointed attorney in a juvenile court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a child, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative or a foster parent, or CASA.
- B.** The court shall review a complaint within ten (10) days of receipt. If the court determines that the complaint presents reasonable cause to believe that the attorney may have failed to act competently or has violated local rules, the court shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint, and shall give the attorney 20 days from the date of the notice to respond to the complaint in writing.
- C.** After a response has been filed by the attorney or the time for submission of a response has passed, the court shall review the complaint and the response, if any, to determine whether the attorney acted contrary to local rules or has acted incompetently. The court may ask the complainant or the attorney for additional information prior to making a determination on the complaint.
- D.** If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted contrary to the rules of the court, the court may reprove the attorney, either privately or publicly, and may, in cases of willful

or egregious violations of local rules, issue such reasonable monetary sanctions against the attorney as the court may deem appropriate.

- E.** If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted incompetently, the court may order that the attorney practice under the supervision of a mentor attorney for a period of at least six (6) months, or that the attorney complete a specified number of hours of training or education in the area in which the attorney was found to have been incompetent, or both. In cases in which the attorney's conduct caused actual harm to his or her client, the court shall order that competent counsel be substituted for the attorney found to have been incompetent, and may, in the court's discretion, refer the matter to the State Bar of California for further action.
- F.** The court shall notify the attorney and the complaining party in writing of its determination of the complaint. If the court makes a finding under subdivision E or F, the attorney shall have ten (10) days after the date of the notice to request a hearing before the court concerning the court's proposed action. If the attorney does not request a hearing within that period of time, the court's determination shall become final.
- G.** If the attorney requests a hearing, the attorney shall serve a copy of the request on the complaining party. The hearing shall be held as soon as practicable after the attorney's request therefore, but in no case shall it be held more than 30 days after it has been requested except by stipulation of the parties. The complainant and the attorney shall each be given at least ten (10) days' notice of the hearing. The hearing may be held in chambers. The hearing shall not be open to the public. The court may designate a commissioner, referee, judge pro tempore, or any qualified member of the bar to act as hearing officer.
- H.** At the hearing, each party shall have the right to present arguments to the hearing officer with respect to the court's determination. Such arguments shall be based on the evidence before the court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time the court made its initial determination with respect to the complaint. Within ten (10) days after the hearing, the court or hearing officer shall issue a written determination upholding, reversing, or amending the court's original determination. The hearing decision shall be the final determination of the court with respect to the matter. A copy of the hearing decision shall be provided to both the complainant and the attorney.

(Effective 7/1/02; revised and renumbered 1/1/12)

## **10.6 Court-Appointed Special Advocate (CASA)**

The juvenile court may appoint a Court-Appointed Special Advocate (CASA) to represent the interests of dependent or delinquent children. In order to qualify for appointment, the CASA representative must be trained by and function under the auspices of the CASA program formed and operating under the guidelines established by the California Judicial Council, as consistent with those guidelines established by the National court Appointed Special Advocate Association and California law. (Welf. & Inst. Code § 100; Cal. Rules of Court, rule 5.655) The CASA program shall report regularly to the presiding judge of the juvenile court with evidence that it is operating pursuant to these guidelines. (Effective 7/1/05; revised 1/1/07; renumbered 1/1/12)

## **10.7 CASA Reports**

In any case in which the court has ordered the appointment of a CASA representative, CASA must file reports with the court and serve counsel and CPS at least two (2) court days before each of the following hearings: six-month review; twelve-month review (permanency hearing); eighteen-month review (permanency review hearing); selection and implementation hearing (366.26 hearing); and post-permanency planning reviews. If CASA was appointed before the establishment of jurisdiction, CASA may submit a report to the court at least two (2) court days before the jurisdiction/disposition hearing. The content of the report must be limited to the current condition of the child and needed services; jurisdictional issues must not be addressed. (See, Cal. Rules of Court, rule 5.655(k)(5)) Only counsel and assigned social workers are entitled to receive copies of CASA reports. Relatives, de facto parents, foster parents, and service providers are not entitled to receive copies of CASA reports. The reports will be copied and distributed by CASA. (Effective 7/1/05; revised 1/1/07; renumbered 1/1/12)

## **10.8 Administration of Psychotropic Medication for Dependents or Wards of the Court**

- A. Upon the initial filing of a Judicial Council Application Regarding Psychotropic Medication and a Judicial Council Order Regarding Application for Administration of Psychotropic Medication, the clerk shall immediately send a copy of the Application to the consulting psychiatrist who is a member of the consulting group authorized by the Administrative Office of the Courts. The court shall, upon request, provide the consulting physician's report to those persons or agencies listed in California Rule of Court, rule 5.640.
- B. For dependents and wards, Child Welfare Services or probation shall send notices of the Application in a manner conforming to California Rules of Court, rule 5.640, to the persons or agencies listed therein.
- C. Upon receipt of the Application, the court within seven (7) court days shall approve, or set a hearing if the court disapproves or provisionally approves, the Application. The hearing shall be scheduled within ten (10) court days of the denial or provisional approval of the Application, with written, electronic, or



telephonic notice at least two (2) calendar days before the hearing to the persons and agencies listed in California Rules of Court, rule 5.640.

- D.** Any objections to the Application must be lodged by submission of a Judicial Council Opposition to Application regarding Psychotropic Medication within two (2) court days of receiving notice. Upon receipt of any opposition, the court may in its discretion deny the Opposition and approve the Application without a hearing, or provisionally approve the Application, or deny the Application. If the court provisionally approves or denies the Application, the court will set the matter for a hearing within ten (10) court days, providing written, telephonic, or electronic notice to those listed in California Rules of Court, rule 5.640, at least two (2) calendar days before the hearing.
- E.** Any approved Application will remain in effect for 180 days, or unless modified or terminated by the court prior to the expiration of the court order to administer the psychotropic medication.
- F.** A new Application Regarding Psychotropic Medication, deemed an initial Application, must be filed if a physician prescribes a new medication, or a dosage for the same medication listed in the initial Application that exceeds the variance permitted by the initial prescription. The rules pertaining to an initial Application will apply.
- G.** The clerk shall, for all approved initial Applications (and those under subdivision F) calendar the matter for a court oral report from the social worker or probation officer for review of any adverse reaction to the medication(s), the child's view of the effects, and the effectiveness of the medication in treating the child's symptoms. The oral report calendar setting will take place no later than 45 days after the court's approval of the Application.
- H.** An Application that renews the medication with the same prescription will follow the procedures stated for an initial Application, including notice and referral to a consulting physician, but will not be calendared for the 45-day review.
- I.** The clerk shall send notice of the court oral report calendar setting to those persons or agencies stated in California Rules of Court, rule 5.640, after the initial Application is approved and at least ten (10) days before the oral report hearing.
- J.** In an emergency, the treating physician may prescribe psychotropic medication without prior court authorization, but the treating physician must submit an initial Judicial Council Order Regarding Application for Psychotropic Medication within two (2) court days following administration of the medication. Thereafter, the court and other agencies will follow the procedures in California Rules of Court, rule 5.640, and this local rule as for an initial Application.

- K.** The court may contact the prescribing or consulting physician to obtain additional information. The court will, upon request, inform all persons and agencies listed in California Rules of Court, rule 5.640, as to any additional information obtained.
- L.** The prescribing physician may terminate the prescription at any time, without further notice to the court. The prescribing physician shall immediately notify the child's social worker or probation officer when the medication is discontinued.
- M.** The prescribing and consulting physicians are encouraged to communicate with each other to offer or receive additional information and to resolve any disagreements.

(Effective 1/1/12)

**RULE 11: APPELLATE DIVISION**

**11.1 Applicable Rules**

Except as modified by this section, the California Rules of Court on appeals to the Superior Court (commencing with rule 8.800) apply to the appellate division. (Effective 7/1/09)

**11.2 Presiding Judge**

The presiding judge of the appellate division is designated annually by the chairperson of the Judicial Council. (Effective 7/1/93; renumbered 1/1/06; renumbered 7/1/09; revised 1/1/12)

**11.3 Sessions**

The appellate division will convene at least once each month at a time and place designated by the presiding judge of the appellate division. (Effective 7/1/93; renumbered 1/1/06; renumbered 7/1/09; revised 1/1/12)

**11.4 Briefs**

With the exception of briefs filed in appeals from infractions, all briefs filed with the appellate division must be bound on the left side, with a plastic cover, and be accompanied by three (3) additional copies. (Effective 7/1/02; renumbered 1/1/06; revised and renumbered 7/1/09)

**11.5 Applications**

Any applications involving matters pending before the appellate division shall be presented to the appellate division presiding judge. All applications shall be heard at 11:30 a.m., by appointment only. The appointment shall be set by calling the clerk of the appellate division. The applicant shall give opposing parties or counsel at least 24 hours' notice of the hearing, unless the nature of the application precludes such notice, and the court for good cause waives notice. (Effective 7/1/02; renumbered 1/1/06; revised 7/1/08; revised and renumbered 7/1/09)

**11.6 Use of Court File Instead of Clerk's Transcript**

- A.** In an appeal from a limited civil case, an appellant may elect to use the original trial court file as the record on appeal in lieu of a clerk's transcript, pursuant to Rules of Court, rule 8.833. An appellant electing to use the trial court file in a limited civil appeal must provide notice of the election when designating the record on appeal, pursuant to Rules of Court, rule 8.831.
- B.** In misdemeanor appeals, the court has elected to use the original trial court file in lieu of a clerk's transcript, pursuant to Rules of Court, rule 8.863.

- C. In infraction appeals, the court has elected to use the original trial court file in lieu of a clerk's transcript, pursuant to Rules of Court, rule 8.914.

(Effective 7/1/09)

#### **11.7 Use of Official Electronic Recording**

- A. In an appeal from a limited civil case in which the proceedings were officially recorded electronically in accordance with Rules of Court, rule 8.835, the original recording or a copy prepared by the court may be transmitted as the record of oral proceedings without being transcribed in lieu of a reporter's transcript or settled statement if so stipulated by the parties or ordered by the trial court, pursuant to Rules of Court, rule 8.837(d)(6)(A).
- B. In an appeal from a misdemeanor case in which the proceedings were officially recorded electronically in accordance with Rules of Court, rule 8.868, the original of the recording or a copy prepared by the court may be transmitted as the record of the oral proceedings without being transcribed in lieu of a reporter's transcript or settled statement if so stipulated by the parties or ordered by the trial court, pursuant to Rules of Court, rule 8.869(d)(6)(A).
- C. In an appeal from an infraction case in which the proceedings were officially recorded electronically in accordance with Rules of Court, rule 8.917, the original recording or a copy made by the court may be transmitted as the record of the oral proceedings without being transcribed in lieu of a reporter's transcript or settled statement if so stipulated by the parties or ordered by the trial court, pursuant to Rules of Court, rule 8.916(d)(6)(A).

(Effective 7/1/09)

#### **11.8 Participating Judges**

Pursuant to Code of Civil Procedure section 77, appellate division cases will be heard and decided by a three-judge panel, except for appeals from convictions of traffic infractions, which will be heard and decided only by the presiding judge of the appellate division.

(Effective 1/1/12)

**LIST OF LOCAL FORMS**

**Mandatory**

**Local Rule**

At-Issue Memorandum & Certificate of Readiness (Family Law)	7.8
Case Management Conference Report (Family Law)	7.6
Order for Court Investigation Regarding Appointment of Relative Guardian(s) Pursuant to Probate Code Section 1513	9.4
Order for Investigation of Non-Relative Guardian(s) By Health & Human Services, Child Welfare Division, Pursuant to Probate Code Section 1516	9.4
Order for Investigation of Relative Guardian(s) By Health and Human Services, Child Welfare Division, Pursuant to Probate Code Section 1516	9.4
Petition to Inspect Adoption Records	8.2
Request for Extension of Time to File	6.7, 6.12

**Optional**

Declaration of Judgment Debtor for Entry of Satisfaction of Judgment (Small Claims)	
Declaration re: Notice for Ex Parte Hearing	7.7.B.
Ex Parte Application and Order to be Relieved as Counsel for Minor	
Notice of Appeal & Request for Trial De Novo (Contested Parking Citation)	
Notice of Appeal & Request for Trial De Novo (Labor Commissioner)	
Notification of Court Address of Conservatee/Ward and of Conservator/Guardian	
Plaintiff's Statement to Clerk – Small Claims	
Referral for Investigator's Report Per Probate Code Sections 1461.1 and 1754	
Request for Hearing	
Request to be Placed on Calendar	
Request to Contest Citation	

## **APPENDIX A**

### **Locating A Qualified Private Child Custody Evaluator**

The information provided in this document may be used to help parties find a private child custody evaluator who is qualified under the law to be appointed by the Napa Superior Court. A child custody evaluator appointed by the court assists the court in determining the health, safety, welfare, and best interests of children with regard to disputed custody and visitation issues. The court does not maintain a list of qualified private evaluators nor does it endorse, supervise, or monitor any particular child custody evaluator.

A private child custody evaluator can be one of four types of mental health professionals. These mental health professionals may be located by searching the Internet or telephone book, or by getting a referral from family, friends, or a family law attorney.

Websites that may be useful include: Napa-Solano Psychological Association [www.napapsychologists.org](http://www.napapsychologists.org); California Board of Behavioral Sciences [www.bbs.ca.gov](http://www.bbs.ca.gov); California Board of Psychology [www.psychboard.ca.gov](http://www.psychboard.ca.gov); American Association for Marriage and Family Therapy [www.aamft.org](http://www.aamft.org); California Association of Marriage and Family Therapists [www.camft.org](http://www.camft.org); American Psychological Association [www.apa.org](http://www.apa.org); and the American Psychiatric Association [www.psych.org](http://www.psych.org). Keep in mind that belonging to or being certified or licensed by a professional organization does not necessarily mean the individual is qualified under California law to act as a child custody evaluator in the family court.

The legal qualifications and responsibilities for a private child custody evaluator are extensive and are primarily set forth in the Family Code including sections 3110.5, 3111, 3118, 1815, and 1816. Also, see Evidence Code section 730, and California Rules of Court, rules 5.220, 5.225, and 5.230. You can access California statutes at [www.leginfo.ca.gov](http://www.leginfo.ca.gov), and California Rules of Court at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules)

It is the responsibility of the parties to ensure that a private child custody evaluator meets or exceeds the legal qualifications for a court-appointed evaluator and to verify his or her credentials. The court does not endorse, evaluate, supervise, or monitor private child custody evaluators nor does the court verify their legal qualifications or credentials.

The court does, however, require that all private child custody evaluators appointed by the court sign a Judicial Council “Declaration of Private Child Custody Evaluator Regarding Qualifications” under penalty of perjury, and file it with the court within ten days of the appointment, attesting to the fact that they meet all the licensing, education, training, and experience requirements mandated by California law. This form may be found at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

The following is a summary of the legal requirements for an individual to be appointed by the court as a private child custody evaluator:

### Licensing Requirements

A qualified private child custody evaluator must be licensed as: (1) a physician who is either a board certified psychiatrist or has completed a residency in psychiatry; (2) a psychologist; (3) a marriage and family therapist; (4) a clinical social worker; or (5) if there are no licensed or certified evaluators who are willing and available within a reasonable period of time to perform a child custody evaluation, the parties may stipulate, with court approval, to an unlicensed individual.

### Education and Training Requirements

A private child custody evaluator must have completed 40 hours of education and training in 21 specific topics set forth in California Rules of Court, rule 5.225(d). This education and training must be completed after January 1, 2000, through an eligible provider by either (a) attending and participating in an approved course, or (b) serving as an instructor in an approved course. A child custody evaluator must also complete eight hours of annual update training under rule 5.225(h). All education and training must be completed through an eligible provider as described in rule 5.225(m).

### Domestic Violence Training

In addition to the requirements described in rule 5.225(d), child custody evaluators must comply with the basic and advanced domestic violence training requirements described in California Rules of Court, rule 5.230, and Family Code section 1816. This includes 16 hours of advanced training within a 12-month period, which must include 12 hours of instruction in 16 categories described in the rule. Evaluators must also complete four hours of update training annually in specified areas of domestic violence described in the rule. All domestic violence training must be through eligible provider as set forth in rule 5.230(e) and Family Code section 1816.

### Experience Requirements

Persons appointed as child custody evaluators must have participated in the completion of at least four partial or full court appointed child custody evaluations within the preceding three years, as described in rule 5.225(g). Each of the four child custody evaluations must have resulted in a written or oral report. There are specific experience requirements for pre-2009 evaluators and new requirements effective January 1, 2010, set forth in rule 5.255(g).

(Effective 7/1/11)

**HISTORY TABLE**

**RULE 1 SCOPE OF RULES FOR THE SUPERIOR COURT**

*(Eff. 7/1/02)*

- 1.1 Effective Date of Rules  
*(Eff. 7/1/02; rev. 7/1/03; rev. 7/1/05; rev. 1/1/06; rev. 7/1/06; rev. 1/1/07; rev. 7/1/07; rev. 7/1/08; rev. 1/1/09; rev. 7/1/09; rev. 1/1/10; rev. 1/1/11; rev. 7/1/11; rev. 1/1/12; rev. 7/1/12; rev. 1/1/13; rev. 7/1/13)*
- 1.2 Citation of Rules  
*(Eff. 1/1/99)*
- 1.3 Construction and Application of Rules  
*(Eff. 7/1/02)*

**RULE 2 COURT ORGANIZATION**

*(Eff. 7/1/02; unnumbered introductory paragraph deleted 1/1/11)*

- 2.1 Policy Making Authority  
*(Eff. 1/1/99; rev. 1/1/11; rev. 1/1/12)*
- 2.2 Administrative Authority  
*(Eff. 7/1/02; rev. 1/1/11)*
- 2.3 Administrative Responsibility  
*(Eff. 7/1/93; **deleted** 1/1/11)*
- 2.3 Presiding Judge, Assistant Presiding Judge, and Acting Presiding Judge  
*(Eff. 7/1/02; rev. 7/1/06; rev. 7/1/08; rev. & renumbered 1/1/11)*
- 2.4 Location and Schedule of Court Sessions  
*(Eff. 7/1/02; rev. 1/1/06; rev. & renumbered 1/1/11)*
- 2.5 Applications for Ex Parte Orders  
*(Eff. 7/1/02; rev. 7/1/03; rev. 7/1/05; rev. 1/1/06; rev. & relettered 7/1/06; rev. 1/1/07; rev. & renumbered 1/1/11; rev. 1/1/13)*
- 2.6 “Duty” Judge  
*(Eff. 7/1/02; renumbered 1/1/11)*
- 2.7 Compensation of Court-Appointed Counsel and Investigators  
*(Eff. 1/1/99; rev. 7/1/04; rev. 7/1/07; renumbered 1/1/11)*
- 2.8 Telephonic Appearances  
*(Eff. 7/1/02; rev. 7/1/03; rev. 7/1/06; rev. 1/1/07; rev. 7/1/08; renumbered 1/1/11)*
- 2.9 Tentative Ruling System  
*(Eff. 7/1/02; rev. 7/1/03; rev. 1/1/07; rev. 1/1/09; renumbered 1/1/11; rev. 7/1/13)*
- 2.10 Facsimile Filing  
*(Eff. 7/1/02; rev. 1/1/07; renumbered 1/1/11)*
- 2.11 Sealing of Juror Information  
*(Eff. 7/1/02; renumbered 1/1/11)*
- 2.12 Courtroom Security  
*(Eff. 7/1/02; renumbered 1/1/11)*



- 2.13 Court Reporter Fees  
(*Eff. 7/1/03; renumbered 1/1/11*)
- 2.14 Court Reporting Services  
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